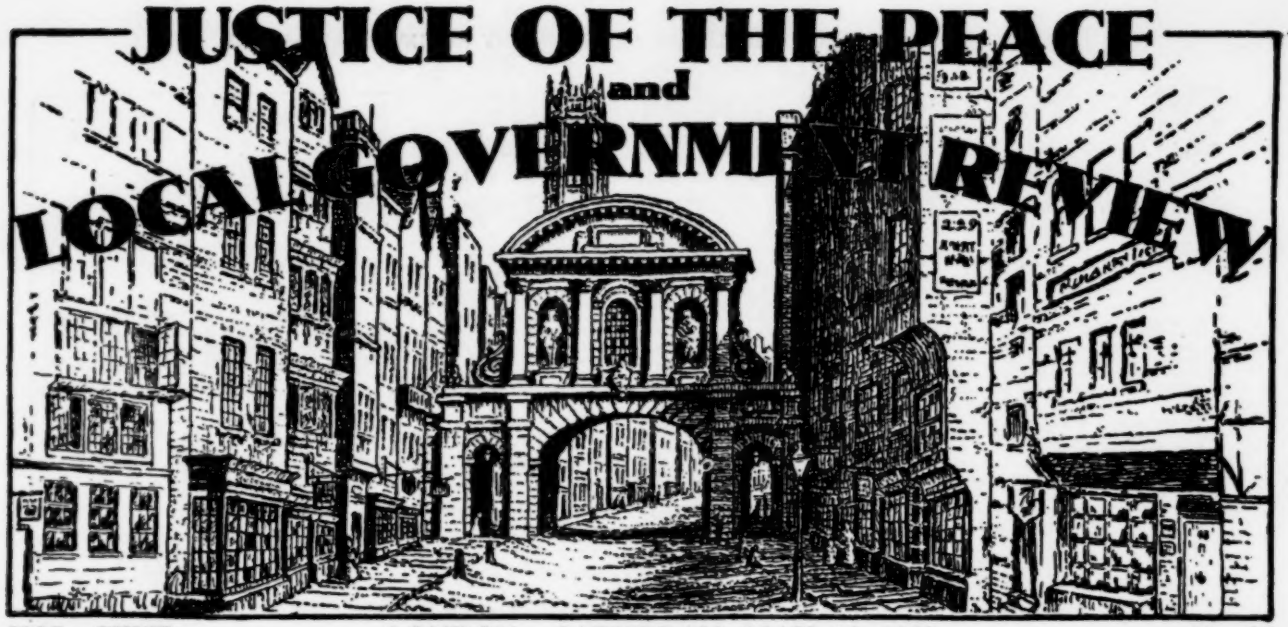

VOL. CXVII LONDON: SATURDAY, MAY 16, 1953 No. 20

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REPORTS

Official & Classified Advertisements, etc.

Official Advertisements (Appointments, Tenders, etc.), 2s. per line and 3s. per displayed headline. Classified Advertisements, 24 words 6s. (each additional line 1s. 6d.) Box Number, 1s. extra *Latest time for receipt* 10 *a.m. Thursday*

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NOTIFICATION OF VACANCIES ORDER, 1952

The engagement of persons answering these advertisements must be made through a Local Office of the Ministry of Labour or a Scheduled Employment Agency if the applicant is a man aged 18-64 or a woman aged 18-59 inclusive unless he or she, or the employment, is excepted from the provisions of the Notification of Vacancies Order, 1952. *Note :* Barristers, Solicitors, Local Government Officers, who are engaged in a professional, administrative or executive capacity, Police Officers and Social Workers are excepted from the provisions of the Order.

INQUIRIES

YORKSHIRE DETECTIVE BUREAU T. E. Hoyland. **Ex-Detective Sergeant.** Member of the B.D.A., F.B.D., Associated American Detective Agencies, and the World Secret Service Association. Confidential enquiries ; Divorce, etc. ; Over 600 agents in all parts of the World. Over twenty-five years C.I.D. and Private Detective Experience at your service. 1, Mayo Road, Bradford. Tel. : 26823 day or night. Established 1945.

PARKINSON & CO., East Boldon, Co. Durham. Private and Commercial Investigators. Instructions accepted from Solicitors only. Tel.: Boldon 7301. Available day and night.

SITUATIONS VACANT

NORFOLK COUNTY COUNCIL require Assistant Solicitor, at least two years' experience since admission. £760-£835 (A.P.T. VIII). Application forms (to be returned by June 4, 1953) from Clerk of Council, County Offices, Thorpe Road, Norwich.

COUNTY BOROUGH OF IPSWICH

Appointment of Assistant Solicitor

APPLICATIONS are invited for the above appointment in the Town Clerk's Office at a salary in accordance with Grades VI or VII or VIII of the A.P.T. Division of the National Salary Scales, the Grading and commencing salary being fixed according to the experience of the successful candidate.

The appointment is subject to (1) The provisions of the Local Government Superannuation Act, 1937 ; (2) the passing of a medical examination ; and (3) the Scheme of conditions of service of the National Joint Council for Local Authority's Administrative, Professional, Technical and Clerical Services.

There is no form of application but candidates must state age, experience, qualifications and other relevant details, and the names of two persons to whom reference can be made. Applications, in envelopes endorsed "Assistant Solicitor," must be received by me not later than May 30, 1953. Canvassing will disqualify. If any applicant is, to his knowledge, related to any Member or any Senior Officer of the Council, the fact must be disclosed in writing to me when an application is submitted.

J. C. NELSON,
Town Clerk.

Town Hall,
Ipswich.
May 15, 1953.

COUNTY OF SOMERSET

Appointment of Male Probation Officer

THE Probation Committee for the Somerset Combined Area invite applications for the appointment of a whole-time male Probation Officer. The appointment will be subject to the Probation Rules and salary will be paid in accordance with these Rules, together with a travelling allowance. The salary will be subject to superannuation deductions, and the selected candidate will be required to pass a medical examination. Applicants must be not less than 23 and not more than 40 years of age, unless the applicant is at present serving as a full-time Probation Officer.

Applications, stating age, qualifications and experience should be addressed to reach the undersigned not later than June 6, 1953.

Testimonials are not at present required but candidates should give the names of three referees to whom inquiries can be addressed.

Canvassing, either directly or indirectly, will be a disqualification.

E. S. RICKARDS,
Clerk of the Peace.

County Hall,
Taunton.

COUNTY BOROUGH OF BURTON-UPON-TRENT

Appointment of Borough Coroner

APPLICATIONS are invited from duly qualified persons for the appointment of Coroner for the County Borough of Burton-upon-Trent.

The appointment is a part-time one, and the salary proposed is £350 per annum. The person appointed will be required to provide office accommodation within the County Borough, clerical assistance and the necessary stationery, statutory forms, etc.

Applications, stating age, qualifications, experience, etc., must reach the undersigned not later than 10 a.m. on Friday, May 29, 1953.

Canvassing, either directly or indirectly, will be a disqualification.

H. BAILEY CHAPMAN,
Town Clerk.

Town Hall,
Burton-upon-Trent.
May 15, 1953.

Justice of the Peace
and
Local Government Review
[ESTABLISHED 1837.]

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NOTES of the WEEK

Blind Justice

It is reported from Berlin that for the first time in German judicial history an appeal has been lodged on the ground of the blindness of the judge and rejected by the Berlin branch of the federal court. The basis of the decision, according to *The Times* report, was that blindness in a judge would only be decisive in a matter which involved the reading of documents or proof by visual demonstration which was not true of the case concerned.

We do not suppose there is one magistrate in the whole of this country who is totally blind, unless perhaps on the supplemental list. It is constantly said that those who hear the witnesses and observe their demeanour are in the best position to find the facts. A blind magistrate would be at the grave disadvantage of being denied such observation of the demeanour of the witnesses, and sometimes of significant changes of expression, or signs or gestures passing between the dock and the witness box. We all know that many blind men and women surpass the majority of seeing people in some particular respect, but we adhere to our opinion that a magistrate needs to possess adequate sight as well as hearing, and that any whose sight is so defective that they cannot observe all that goes on, to say nothing of the ability to read documents and examine exhibits, would be well advised to apply to be placed on the supplemental list. Sir John Fielding, the blind magistrate of the Bow Street Police Office, did exceptionally good work in the eighteenth century, but this was at a time when many justices were reputed to be corrupt as well as incompetent, and blind Sir John stood high above them. Today the standard of integrity and competence among justices is high, and there is no real dearth of men and women in full possession of all their faculties, to supply the needs of the magistrates' courts.

Justices Reasons for Decisions in Matrimonial Cases

Once again the High Court has had occasion to criticize justices and their clerk for failure to supply the Court with an adequate statement of the reasons for the decision of the justices for the purpose of an appeal under the Summary Jurisdiction (Separation and Maintenance) Acts.

In *Bown* v. *Bown* (*The Times*, April 25) the case was remitted to the justices for re-hearing, they having dismissed a wife's complaints of alleged cruelty and desertion and given as their only reason for the dismissal that they were not satisfied on the evidence offered that the complaints were substantiated.

In an article at p. 132, *ante*, we discussed the way in which we considered justices should deal with this matter of stating their reasons, and suggested in conclusion, that it is probably better to err in the direction of expansion of the reasons than to state them so shortly that they leave some room for doubt as to what it was upon which the justices based their decision. It was just that kind of doubt which gave rise to criticism in *Bown* v. *Bown*.

In the course of his judgment, the learned President said: "The reasons might have meant that, even accepting the evidence offered, it did not amount to proof of desertion or cruelty, or that they (the justices) did not believe the evidence offered on behalf of the wife, but believed that of the husband, or that they would have preferred the wife's story if it had been corroborated, but that there was insufficient corroboration to justify a decision in the wife's favour."

Suspended Commitment for Arrears

When a man goes to prison for arrears under a maintenance order it is satisfactory that if possible the commitment should be in respect of all arrears due at that date, so that when he leaves prison there is nothing due from him. That is why it is the practice of some courts, upon deciding that the time has come to impose imprisonment, to have a fresh complaint made up to date, unless the defendant consents to an amendment of the existing complaint. Inquiry as to the means of the defendant and as to the reason for non-payment must be undertaken at the same time.

Difficulty can arise in the case of a suspended warrant of commitment, for it is not permissible to take into account any arrears that have accumulated since the warrant was suspended, unless there has been a further appearance in court. This was made clear in *R.* v. *Governor of Bedford Prison and others, Ex parte Ames* [1953] 1 All E.R. 1002, when the Divisional Court granted *habeas corpus* in respect of a man who had been committed by justices in default of payment of maintenance arrears. Originally the warrant of commitment had been suspended on the usual condition that the defendant paid the weekly amount of the order plus a small sum off the arrears. After many months, the condition not having been fulfilled, the court ordered the commitment to be executed, without any fresh inquiry in the presence of the defendant, and this the Divisional Court held to be regular, since the inquiry had been duly held before the warrant was suspended. What was wrong was that the defendant had been committed for the full amount named in the original warrant, without deducting the total of the payments he had made since the suspension of the warrant, which ought to

have been credited to the defendant in reduction of the arrears named in the warrant.

It is necessary that if there is to be any question of dealing with the account as a whole and assessing the arrears due after payments have been made during the suspension of a warrant in such circumstances, there must be fresh process and a fresh inquiry into the reasons for non-payment of the sum due at the time of the issue of the fresh process.

London Sessions Probationers' Fund

In spite of all that is done by way of provision for the work of probation out of public funds, there is still scope, and indeed need, for voluntary help if the best possible is to be achieved in this kind of work. The report of the committee of the London Sessions Probationers' Fund illustrates this clearly.

The statement of income and expenditure shows that a considerable sum has been subscribed and has been administered without expense apart from a trivial item for postage, and the report shows that the money has been wisely used so as to confer real benefit upon probationers. Gifts of money, clothing, books and toys have helped not only probationers but also their families. The fund is indebted to members of the Bar and to the Magistrates' Courts for their support, as well as to a number of other subscribers, and funds are still needed.

There is a striking paragraph dealing with the results of cases committed to the Sessions with a view to the passing of a sentence of borstal training.

" Figures of special interest are those concerning the 201 persons between the ages of sixteen and twenty-one who were committed for sentence under s. 20 of the Criminal Justice Act, 1948, during 1950. After inquiries it was found possible to place fifty-two of these on probation and it is pleasing to know that thirty-eight of this number have completed their probation satisfactorily. It will be appreciated that practically all these young persons had been before the courts on previous occasions and had been on probation or to approved schools. The period in custody awaiting trial has probably assisted in bringing these young persons to a realization of their position and helped towards reform without incurring the expense of borstal training. These figures bear evidence of the use made of probation in this court and with what satisfactory results."

While it appears from most reports of probation committees and probation officers that the additional duties in connexion with after-care placed upon probation officers has been undertaken gladly in spite of its difficulties, it does create a problem that has to be recognized. The report we are considering contains the following comment on the after-care of prisoners released after corrective training : " We are pleased that the probation officers have taken on this important work of rehabilitation but hope that it will not detract in any way from the attention given to probationers. It does seem that these extra duties have been allotted to the Probation Service before arrangements have been made to provide an adequate staff to bear the new burdens, and no provision seems to have been made to meet the increase in delinquency that has recently taken place."

A Question of Trespass

" An assault committed by a man in defence of his property is justifiable, provided that no more force is used than is reasonably necessary."

" If a person is in possession of a house or land and someone else enters with force and violence, or behaves with force and violence on the land, the person in possession may resist and turn him out without requesting him to leave, and may use such force as is necessary." (33 Halsbury 34.)

In *Baker* v. *Bramble* (*The Times*, May 1) the Divisional Court dismissed an appeal by an articled clerk whose information for assault had been dismissed by justices. According to the evidence before the justices, the prosecutor went to serve a writ on the defendant, and when eventually the defendant came to the door the prosecutor put his foot in the door, without saying who he was. The defendant, thinking it was someone trying to break into the house, grasped the prosecutor, lifted him off the ground, and spun him round to see who he was. Recognizing the prosecutor, the defendant let him go and ran away.

In the course of his judgment, the Lord Chief Justice said that the defendant was quite justified in taking hold of the prosecutor and putting him out. The fact that the prosecutor put his foot in the door was sufficient force to justify the use of force by the defendant.

Coronation Procession Seats

Seats for viewing the Coronation procession have been offered to representatives of a large variety of public bodies and, mainly through their associations, to local authorities. The acceptance of a seat involves a minimum payment of £4 which, in addition to the expenses of travelling to London and accommodation there, may make it impossible for some people to accept them. Some voluntary organizations are helping with the expenses of their representatives and it may well be that bodies such as trade unions and trade associations will allow the cost to be charged to their funds. The position is, however, different in the case of members and officers of local authorities as no expenditure may be charged on the rates unless it is authorized by statute or approved specially by the appropriate Minister. Some local authorities have argued that the cost of the seats and other attendant expense should be accepted as a rate charge and that accordingly a sanction should be given under s. 228 (1) of the Local Government Act, 1933. The authorities concerned have been informed that the Minister of Housing and Local Government is of opinion that there would be little support for this view as it might be expected that members on whom the choice falls should meet the costs out of their own pockets. In any case it should be the rule as regards salaried officers. The letter goes on to say, however, that " if in any exceptional case a council is satisfied that a member should be allotted a seat and could not be expected to find the expense in this way and would otherwise have to forego the privilege, any resultant rate charge must come under audit in the ordinary way." But that if at audit the district auditor takes exception to any such expenditure the Minister would then consider sympathetically an application for sanction under s. 228 (1). This leaves the matter rather unsatisfactorily and we should have thought it would have been better either to give a sanction, which we do not think would generally have been desired, or to say that there was no statutory authority for any such expenditure.

Welfare Officers

We have referred previously to the overlapping which exists in welfare organization administration and also to the tendency to create for different types of staffs, both in local government and otherwise, more and more organizations, some of which award professional diplomas. It is useful, therefore, that the Local Government Examinations Board deals generally with the establishment of a general qualification for local government staffs, although we appreciate the value of some of the specialist qualifications which may be obtained as a result of examinations conducted

by or under the auspices of certain of the vocational organizations. We feel, however, that the number and variety of examinations, certificates and diplomas should be kept to a minimum.

On the subject of welfare we have sometimes wondered whether the term " welfare officer " is used in so many connexions, both in industry and in the public service, as to make it difficult for anyone to know just what a welfare officer does and the kind of work for which he is responsible. Perhaps, however, we have been mistaken in this view, as we have heard recently of an organization called the Institute of Welfare Officers, which seeks to bring together those engaged in welfare work in different fields. It is considered by the Institute that in industry and the social services, the basic qualifications for a welfare officer are identical, and that the co-ordination of welfare can be brought about by the establishment of a common standard of primary qualification together with the correlation of existing specialist training and the inauguration of a specialist course in any sphere of welfare where the provision is not now made. The Institute was founded because it was believed by the promoters that only a society devoted wholly and solely to Welfare can bring about the establishment of the requisite professional status in those branches of welfare work where the present status is inadequate. Apparently the Institute is giving consideration to the promotion of an examination scheme to cover those engaged in welfare administration who are not already so covered. If this results in the establishment of a qualification which can be recognized as giving a hallmark which is not at present available it should be of advantage to employers. We hope, however, that too much stress will not be laid on the mere passing of examinations but that, whilst recognizing the value of this, it should be accepted that an essential attribute of a person employed as a welfare officer in any sphere is an understanding nature and sympathy with the problems which many people have to face combined with the facility and knowledge to give the help or advice they need.

Mental Health

The chapter on mental health in the annual report of the Chief Medical Officer of the Ministry of Health shows the progress which has been made in regard to voluntary admissions to mental hospitals instead of certification. In some areas over two-thirds of the patients were so admitted and it may be worth while for magistrates to inquire as to the proportion in their area. The position as to the certification of the elderly is still unsatisfactory and it is disappointing to learn that admissions of those over sixty-five have again risen. As emphasized in the report, this disturbing rise is greater than can be explained by the increased age of the population and must be due to other causes as well, such as loss of the beds which used to exist in public assistance institutions or to social factors, lack of adequate housing, increased employment of women and less willingness to accept family obligations. On the first point, it is pertinent to comment that the poor law buildings which were formerly used for this purpose have not disappeared but their user has been altered by the new hospital authorities. Would it not be reasonable for some of them to revert to their former use and so save the necessity of some elderly persons to be certified?

On the clinical side it is satisfactory to learn that there is an increased awareness that the term " *senile dementia* " has been used in much too facile a fashion and there is need for more exact diagnosis if these patients are to receive the appropriate treatment which may in many instances lead to recovery. That the common notion that when once old people are admitted to mental hospitals they remain there for the rest of their lives is not true is shown by an investigation reported by the geriatric committee of the Royal Medico-Psychological Association. Six hundred admissions to five mental hospitals of patients aged sixty-five or over were followed up for two years. At the end of that period forty-two *per cent.* had been discharged, thirty-eight *per cent.* had died and only twenty *per cent.* remained in residence. Those who have to certify elderly persons will not be surprised to learn that many of those who are admitted to a mental hospital, though legally certifiable, show little in the way of marked behaviour disorder and might be more happily and economically cared for in other accommodation without certification. Surveys of patients over the age of sixty carried out in some regions suggest that about twenty-five *per cent.* (*i.e.*, approximately 10,000 patients in the country) would be suitable for such accommodation, the provision of which in the form of long-stay annexes is progressing but slowly. The position so disclosed will again strengthen magistrates in their view that more should be done in this direction and make them hesitate to certify patients until every effort has been made for their accommodation elsewhere.

Local Government Salaries and Wages

It is now some years since local authorities were able to fix, in competition with others, the wages to be paid to their manual workers which were the first to be dealt with by joint industrial councils or other negotiating bodies, but gradually the whole of the local government service has become piecemeal under various forms of national bargaining machinery culminating in the most recent adoption of the principle in relation to the clerk to the council and other senior officers. This movement is not altogether popular with some council-members and perhaps some officials who think that the local authority should, in the case of its chief officers at any rate, be in a position to pay what they think is the value of the job and to give special rewards, as some of them did, in recognition of special merit. National scales of remuneration may sometimes result in the mediocre official getting more than he deserves and prevent a local authority from recognizing outstanding ability. But the present position must be accepted, and at least results in the staffs being reasonably paid at similar rates for the same kind of job. Local authorities are, however, embarrassed and the work of their finance departments are burdened by having to deal with awards made by a great variety of negotiating bodies. It is not surprising, therefore, that the Association of Municipal Corporations at its last meeting decided to resist the creation of any new joint negotiating committees and asked the council of the association to review the structure and function of the existing committees and press for a reduction in their numbers. There are apparently some forty separate negotiating bodies in existence. All of them are composed of representatives of the employers and the employees. Meetings are frequently protracted before agreement is reached, which on the local authority side means that members representing the employers who are usually busy members of their own authority have to travel to London or other centres and spend a great deal of time, with expense to the public, in the work. If, therefore, the number of those bodies could be reduced there could be a considerable saving in time and money in various directions.

The local authority associations agree as to the need to take some action in the matter and it is to be hoped that the employees' organizations will also agree that some measure of rationalization is desirable. Trade unions are naturally concerned to get the best possible rates of remuneration for their members and sometimes, we imagine, they get more than they would otherwise get because when one body reaches agreement for an increase that is taken as a precedent for another body doing so. Thus the ball starts rolling again. Some progress in achieving

a common policy has resulted from the establishment of the Local Authorities Conditions of Service Advisory Board, but unfortunately this Board only has jurisdiction over part of the field covered by the whole of the negotiating bodies.

Local Elections in France

The local elections which were held in France last month were the first since 1947. Each commune has its mayor and a council which varies considerably in size, the average number of members being only twelve. The population of each commune also varies greatly as out of a total of some 38,000 there are only 425 with a population of over 9,000. There was a greatly increased poll this year amounting to about seventy-five *per cent.* of the electorate and the greatest interest was taken in those areas where communists were standing for election. Many of the moderately minded citizens who usually have not voted apparently did so on this occasion. France must, we think, have the oldest mayor in the world in the person of the Mayor of d'Ehuns, a commune of 150 inhabitants. He has held this office since 1878, and is in his 102nd year. He was re-elected in spite of the fact he has been bedridden for six months. In the larger towns, the elections are fought on party lines which, as in national politics, may mean having representatives of six main groups in addition to some smaller groups. But in most of the communes politics enter little, or not at all, into the elections and the members are elected on their merits often with little competition. The French mayor, even in a small commune, is a man of considerable authority, but often combines daily attendance at the office, when he may have to perform marriages and do much administrative work, with running his own shop or business. He has control of the local police, and is considered a unique figure in French local democracy. He is chosen by the council, usually, but not invariably, as a member of the dominant political group or groups, which in practice means socialist or anti-socialist, with perhaps a sprinkling of communists.

The system of voting at municipal elections differs according to the size of the commune. Where there are less than 9,000 inhabitants, a candidate is not elected on the first voting unless he has an absolute majority over all the other candidates. Otherwise there is a second poll a week later. Those obtaining the greatest number of votes as individuals are then elected. In communes with over 9,000 inhabitants there is a system of proportional representation, under which candidates are elected on the basis of the total number of votes recorded for each party.

THE MEANING OF CHILD

[CONTRIBUTED]

What is a child? Webster's dictionary gives the following definitions: "a son or daughter"; "a male or female descendant in the first degree"; "the immediate progeny of human parents"; "legally, legitimate offspring." The last is rather condensed when one considers the various legal definitions which appear in different Acts. There can hardly be any word which has more legal meanings.

The natural place to look for a definition is either the Children and Young Persons Act, 1933, or the Children Act, 1948. Even here there is disagreement. To take the earlier Act first, the interpretation section is s. 107, and there "child" is defined as "a person under the age of fourteen years." This is governed by the case of *Re Shurey*, *Savory* v. *Shurey*, [1918] 1 Ch. 263, holding that a person attains a particular age at the first moment of the day preceding that particular anniversary of his birth. *See* also s. 99 of the Act as to presumption of age. The 1938 Children and Young Persons Act made no alteration in this. This, then, is the definition, in general, when a child is brought before the juvenile courts.

The Children Act, 1948, is concerned mainly with the duties of local authorities towards children, and here "child" has a different meaning. The interpretation section is s. 59, where "child" means a person under the age of eighteen years. Care must be taken here as s. 1 only applies to a child under the age of seventeen, but when once a child has been received into the care of a local authority under this section, that authority may still proceed to pass a resolution under s. 2 until the child is eighteen, as the interpretation section is not here modified.

These, then, are the two main Acts where a definition may be expected. However, there are many other Acts which require a different interpretation. Take the Education Act, 1944. By s. 114, "child" means "a person who is not over compulsory school age. By s. 35 compulsory school age means any age between five years and fifteen years, although by s. 38, if the child is registered at a special school, compulsory school age is until sixteen. This has, however, been modified by s. 8 (1) of the Education Act, 1946, where a person shall be deemed not to have attained a particular age until the end of the school term in which he attains that age. By s. 35 of the 1944 Act, the upper limit may be changed by Order in Council to sixteen, and in that case, by s. 114 (6), a child who has ceased to be of compulsory school age, shall not again be of compulsory school age by reason of the change.

The Nursery and Child Minders Act, 1948, adopted the definition in the Education Act, 1944, as amended by the 1946 Act. It is noteworthy that the Adoption Act, 1950, refers throughout to infants except that the details of an adoption are entered in an Adopted Children Register and by the references in ss. 13 and 14 to child, it appears that the dictionary definition of child is intended in this Act.

The National Assistance Act, 1948, has another variation, where by s. 64 (1) a child means a person under the age of sixteen, but by s. 64 (3) he shall not be deemed to have attained the age of sixteen until the commencement of the sixteenth anniversary of the day of his birth. This is of particular importance in the liability of a person to maintain his or her children, as one of the grounds for a woman obtaining an order against her husband is that he has wilfully neglected to provide reasonable maintenance for her or her infant children whom he is legally liable to maintain. The order can then give custody and order payment for any children of the marriage while under the age of sixteen years, which is achieved one day earlier than the cessation for liability under the National Assistance Act. By s. 2 of the Married Women (Maintenance) Act, 1949, the order may be varied in certain circumstances until the child attains the age of twenty-one. Child here must again have the dictionary definition.

Among other references to child may be mentioned the Bastardy Laws Amendment Act, 1872, where an order has no force or validity after a child has attained the age of thirteen years unless the justices in the order direct that the payments shall continue until the child attains the age of sixteen years.

Though this list does not claim to be comprehensive it is enough to show that wherever a child is being considered, the Act should carefully be considered to see what is meant by a child.

FAG.

LOCAL GOVERNMENT REFORM

[CONTRIBUTED]

The proposals of the Joint Committee, representative of four local authority associations, on the Reform of Local Government, bear a marked similarity to the recommendations contained in the 1947 report of the Local Government Boundary Commission. The smaller boroughs and urban district councils will see in them an opportunity of retaining their identities, and gaining an increased amount of control in connexion with county services, which they will hope will be delegated to them under the delegation schemes proposed in the recommendations. On the other hand, from the point of view of many of the larger non-county boroughs and urban districts, the present writer suggests that the proposals leave much to be desired. Those with a present population of over 100,000 will welcome them in that they may bring nearer their ambitions to achieve county borough status. This will apply particularly to Ilford, Luton and Ealing, who have long sought this status. The 50,000 to 75,000 boroughs and urban districts will, however, find many defects in them. Equally, those with populations of between 75,000 and 100,000, will regard it as unreasonable that they should be deprived of the opportunity of seeking county borough status, while existing county boroughs with populations between those two figures will be allowed to retain this superior position in the local government sphere.

Generally speaking, the medium sized authority (from 50,000 to 75,000 population) will, in the writer's opinion, feel that its interests have been neglected by the negotiators. Apart from the fact that para. 12 of the recommendations contemplates that there will be varying degrees of delegation between authorities of similar status, there is no assurance that they will be treated any more favourably than the under 10,000 authority. Would it not have been reasonable for the negotiators to have given consideration to the proposal of the Local Government Boundary Commission with regard to "most purpose" authorities?

It will be recollected that the Commission had in mind the establishment of this type of authority for areas with a population in excess of 60,000—a figure which some people thought was somewhat high, and might well have been reduced to 50,000. They had in mind that the authorities for these "most purpose county boroughs" should be responsible for practically the whole field of local government administration, with the exception of police, fire, and one or two other functions. Such a proposal would not only have been welcomed by the larger county district authority, but it would have done much to ensure that, in those large areas, local government is made—as it should be—as local as possible.

But even if the idea of the "most purpose county borough" was not acceptable to the county authorities, surely it would have been possible to have recognized the important position which the larger non-county boroughs and urban districts have to play in local government administration. It would, it is suggested, have been simple to provide that such authorities should have the fullest possible delegation of the sch. III services *as of right*, without having to fight for it in the negotiations on the proposed delegation schemes. The larger county districts know (to their sorrow) that many county councillors are drawn from the ranks of the smaller county district authorities, and that they are reluctant to concede to the larger authorities what they are unable to pass on to the smaller authorities. The larger authorities have suffered on this account, and there is not a great deal of hope that they will fare better under the new proposals.

Many of these authorities will also see cause for complaint in the omission from sch. II (*i.e.*, services for which the district councils will have exclusive responsibility) of highways other than unclassified roads. Hitherto, most of them have been responsible for classified roads in their districts by reason of being "claiming" authorities under the Act of 1929. Apparently, it is now contemplated that they should cease to be highway authorities altogether for classified roads, and have in place the hope that they will get some crumbs of delegation from the county table.

It is of interest to note that sch. II includes food and drugs and libraries, and that these services are also listed under sch. III (the services for which the county will be primarily responsible, but subject to delegation). It would seem that there is a difference of opinion between the urban authorities and the counties on this matter. The urban authorities would apparently wish to see these services the exclusive responsibility of the district councils, whereas the counties consider that they are more appropriately county services and should be subject to delegation in appropriate cases. One can see a good deal of controversy raging over these issues. There is no doubt that many urban district councils and non-county borough councils are too small to be considered suitable for the administration of either of these services. Accordingly, if the recommendations are adopted, Parliament must, it is suggested, come down on the side of the county councils and provide that these services should be primarily the county councils' responsibility. The effect is that the large county districts, which can and do already administer these services, will lose their statutory rights and have to be content with such delegation as they can obtain. At present the cost of administering these services is frequently less in the larger county districts than it is in the counties; presumably, under the new "set-up" the county districts, which will lose these services and become delegatee authorities, will have to pay a higher rate in the £. In other words, the ratepayers will suffer and they will lose these services on the altar of the interests of the smaller authorities.

The more the writer considers many of these proposals, the more is he convinced that once again, as in the case of the Education Act, 1944, there is a risk that the larger non-county boroughs and urban districts will be sacrificed, in an attempt to secure additional powers for small and uneconomic units of administration.

The next point of interest in the report is the reference in para. 5 of the appendix to the great conurbations. The proposals in this respect bear a marked similarity to what was widely publicized some years ago, as the "Manchester Plan." The Plan was an attractive idea, but it is submitted that it would be unworkable unless the large city, which was to be the centre of the conurbation, was split up into a number of separate district or borough councils. Most of our large cities have grown by the absorption of the smaller borough and district councils surrounding them, and it would be most difficult, if not impossible, to "unscramble the egg" at this stage. Apart from anything else, civic loyalties would be a severe stumbling block to any such proposal. Nevertheless, unless there were some "unscrambling" of the large authority, it would have the dominating voice in the "conurbation" council, to such an extent that the voice of the other authorities would be ineffective.

The final point to which it is desired to refer is an omission from the recommendations. One reform of local government

that many would like to see would be the indirect election of county councillors. Little interest is shown in county elections, because the county is too remote to excite the interest of the average elector. It is also axiomatic that there is far too little co-operation between county districts and county authorities, except in some areas such as Lancashire. Accordingly, many have long felt that county councillors should be elected, not by the electorate as a whole but from among the ranks of district councillors, and elected by such councillors.

It is appreciated that there are objections to indirect election, but it is submitted that the advantages of indirect election in such a case as this are such that the idea is worthy of consideration. Whether it has been considered by the Joint Committee is not known, but they make no reference to it in their recommendations.

In conclusion, however welcome be a measure of agreement, going beyond what has ever been achieved before in this sphere, the writer suggests, as has been indicated above, that (so far as the larger county districts are concerned) they will if they accept the recommendations have thrown away the substance for the shadow.

" APEX."

FULL INDEMNITY : A NATIONAL RIGHT OF JUSTICE

[CONTRIBUTED]

In *Merrington* v. *Ironbridge Metal Works, Ltd. and Others* [1952] 2 All E.R. 1101, the sum of £15,000 damages (£1,000 of which was special damages) were awarded to a fireman who was seriously injured by an explosion which took place at a factory where he was fire-fighting. The court held that the defendants were negligent in not warning him of a particularly dangerous state of affairs of which he had no reason to be aware otherwise. By the Law Reform (Miscellaneous Provisions) Act, 1934, all causes of action (except defamation) subsisting against or vested in a deceased person at his death survive against or for his estate, and the most sanguine of lawyers and others are continually surprised at the amounts of damages awarded as the courts have assessed in money the loss of expectation of life. In *Rose* v. *Ford* [1937] A.C. 826, this loss of expectation was defined as including the loss of normal duration of life as a thing of value in itself.

Recently a case has been decided apparently upon an opposed principle. *Horabin* v. *British Airways Corporation* [1952] 2 All E.R. 1016, concerned serious injuries suffered by the plaintiff in a crash landing of an aircraft in which he had been a passenger for Lagos. After various vicissitudes the aircraft crashed back in England with empty tanks. The liability of the Corporation was governed by the Carriage by Air Act, 1932, under which carriers are liable in damages for injury suffered by a passenger unless they prove the taking by them or their agents of all necessary measures to avoid the damage. Contributory negligence by the passenger may prevent any or full recovery by him. Further, unless the passenger can prove wilful misconduct by the carriers, their servants or agents, he cannot recover more in any case than the equivalent of 125,000 gold francs, some £3,000. The question in Mr. Horabin's case was whether he could prove wilful misconduct.

The case was tried before a jury, which came back after its first retirement and asked for further direction. In the course of his further direction, Barry, J., reiterated the following definition of wilful misconduct : " To be guilty of wilful misconduct the person concerned must appreciate that he is acting wrongfully or is wrongfully omitting to act, and yet persists in so acting or in omitting to act regardless of the consequences, or acts or omits to act with reckless indifference as to what the results may be," and later said (at p. 1023) : " If a man departs from his instructions, he may be committing a grave error of judgment in so doing, and you may think now (knowing all we now know about this flight) that the pilot was wrong in so doing. But that does not by any means conclude the matter. You have also to be satisfied that at the time when the pilot knowingly departed from the instructions he realized that he was doing something which amounted to misconduct, *i.e.*, something which was contrary to the interests of the passengers or of the Corporation which employed him and which owned the aircraft, or involved his passengers or the aircraft in a greater risk than would have been involved had he adhered to his instructions."

The jury failed to agree, and the action was compromised for £3,017 4*s.* 9*d.* for which liability was admitted, the plaintiff withdrawing allegations of wilful misconduct.

A little later, Mr. Horabin wrote to *The Times* referring to his case as a matter of public interest, in that the courts were interpreting the Act in such a way as to put an almost impossible burden upon a plaintiff, and suggesting that, for the assistance of the still comparatively novel travel by air, carriers should be liable for the negligence of their servants.

As Barry, J., pointed out, the Carriage by Air Act, 1932, which Mr. Horabin suggested was in need of alteration, was passed in order to make part of the law (of the United Kingdom) the rules adopted at a Convention on Civil Aviation held in Warsaw in 1929, and in August next the Legal Committee of the International Civil Aviation Organization will meet in Rio de Janeiro to study and revise a convention prepared in Paris last year which is intended to supersede or amend the Warsaw Convention. Whether the revised convention will revise the Warsaw Convention touching upon this point ; whether, if it does, it will be made part of the law of this country ; and even whether the courts have been too restrictive in the interpretation of the relevant provision in the Act of 1932, are matters for conjecture, but another correspondent of *The Times* under the heading, " Injuries in Air Crashes," referred to s. 503 of the Merchant Shipping Act, 1894, which allows a shipowner to limit his liability occurring without his actual fault or privity, and quoted Dr. Lushington in *The Amalia* (1863) Brown & Lush 151, referring to that provision as "an abridgment for political reasons of full indemnity, the natural right of justice." The writer ended his letter with the words, " No doubt a similar political object is responsible for the limitation provided for by the Carriage by Air Act, 1932."

One example of injury without individual indemnity is injury from the defective condition of a public highway, which does not arise from defective construction or repair, but which is the result of wear and tear. Here indemnity cannot be had. The only possible indemnifier is the public and action cannot lie against the road authority, which represents the public ; *Russell* v. *Men of Devon* (1788) 2 T.R. 667. Public highways amount to public provision which every member of the public has the like enjoyment, or at least a sufficiently common enjoyment to be classed altogether as one. Public policy in such a case has been met in the doctrine of non-feasance, a doctrine against the extension of which the courts are ever awake. In some cases, the statute imposing the duty on the local authority provides penalties or other specific remedy which excludes action for damages, *e.g.*, as in *Atkinson* v. *Newcastle Waterworks Co.*

(1877) 2 Ex D 441. Another example is the duty to maintain public sewers, where the remedy is an appeal to a Minister; *Pasmore* v. *Oswaldtwistle U.D.C.* [1898] A.C. 387; 66 J.P. 628.

Such examples are of cases different on principle from the air and sea carrier cases. Moreover nationalization of the undertaking makes no difference. The issue is not affected because the State (or its nominee, *e.g.*, a public corporation) has to pay the damages. The liability of the National Coal Board is, to take one case, as was the former liability of the companies. In *Rushton* v. *National Coal Board* [1953] 1 All E.R. 314, £7,000 damages were awarded against the Board in respect of personal injuries. The only alteration is that the Boards, etc., get some new advantage from the Public Authorities Protection Acts.

A limitation of the right of full indemnity must nearly always seem arbitrary to the individual suffering the injury. But consider injury in war. True the State awards, *e.g.*, disability pensions, and endeavours to get repatriation from the losers, that is, from the State of those who caused the injury, but full indemnity through judicial procedure in such cases is, so far, beyond the wit of man. Full indemnity may be a right of natural justice, but in practice only in peace time and according to the law of the country concerned.

Probably individuals can do much, again in peace time, to get recompense through personal insurance. Travellers by air and sea can do so, and no doubt often do so, except in cases of unusual risk. But if they do not secure some private arrangement, clearly, whether for the reason given by Dr. Lushington or for some other or even for no good reason at all, they cannot recover more than a certain figure unless they can prove actual fault or wilful misconduct. *The Hans Hoth* [1953] 1 All E.R. 218, concerning a collision in Dover Harbour is another recent example. Dover Harbour is subject to compulsory pilotage, and signals for traffic in it are controlled from the shore and are given on a mast. The master of the *Hans Hoth* had taken on board a local pilot, who did not see the signal exhibited for the other vessel to leave the Harbour, and proceeded to take his ship in. The master saw the signal, but he did not ascertain its meaning or draw the pilot's attention to it. The owners of the *Hans Hoth* were held entitled to a declaration of limitation of liability under the Merchant Shipping Acts, for their servant, the master, was entitled to rely on the pilot, and therefore the collision was not with his "actual fault or privity."

The desirability of uniformity in conditions of carriage is partly in that passengers do not have different rights when changing from the ship of one nationality to one of another. They do get advantage from realizing that international convention has worked against arbitrary variation of provision and practice. But, when in running down cases, Factory Act cases, and very many others, the courts have unfettered right to assess as best they can full indemnity and to enforce the payment of it, the peculiar limitation in sea and air travel must seem somewhat anachronistic, to travellers in British ships and aircraft especially.

"EPHESUS."

THE RENT OF THE CASTLE

An Englishman's home is his castle. Those to whom the days of long ago were the good old times, say "was." The march of civilization in their view has so hedged about the occupation of a house with duties to the public, in other words, to the State and local authority, that the phrase has no legal significance left to it. To such persons *R.* v. *Wimbledon Justices, Ex parte Derwent* [1953] 1 All E.R. 390; 117 J.P. 113, will be welcome so far as it goes.

Where a house has been sold subject to conditions attached to the conveyance, pursuant to s. 3 of the Housing Act, 1952, providing for limitation of the future selling price or rent during any period up to five years, and precluding the purchaser during that period from selling or letting the house unless he has offered to sell or let the house to the local authority, s. 4 of the same Act provides that s. 7 of the Building Materials and Housing Act, 1945, shall apply as if the house had been constructed under licence so conditioned. Section 7 of the Act of 1945 provides that where a building licence has been granted subject to any condition limiting selling price or rent, any person who within the restricted period sells or offers to sell the house for a greater price than the permitted price, or lets or offers to let at greater than the permitted rent, shall be liable on summary conviction to a fine not exceeding the aggregate of such amount as will in the opinion of the court secure that he derives no benefit from the offence and the further amount of £100; or to imprisonment for a term not exceeding three months, or to both fine and imprisonment.

In *R.* v. *Wimbledon Justices*, *supra*, an order of prohibition went to the justices prohibiting them from hearing summonses against the applicant, in respect of his having let houses above the rents conditioned in the building licences. The summonses were based on informations laid on June 12, 1952. The building licences had been issued by the Wimbledon town council on dates between November 2, 1948, and March 7, 1950. On dates between November 1, 1949, and August 12, 1951, the applicant let the seven houses in question at rents which exceeded the permitted rents by £23 to £25, and the applicant contended that under the Summary Jurisdiction Act, 1848, s. 11, the justices had no jurisdiction to hear and determine because the informations were in all cases laid more than six months after the lettings had taken place, and that a letting was not a continuing offence.

Were the lettings continuing offences? The Wimbledon council had asked for an amendment in the informations as follows, *viz.*, "and that the said house continued to be and still is let at the said rent which is in excess of the rent so limited." But the court did not agree that the offences were continuing. Lord Goddard, C.J., said, on p. 392, "... In my opinion such a construction is impossible. A person lets a house once and for all when he demises the houses by means of the lease, and it is conceded in this case—because counsel for the respondents could not argue otherwise—that in a case of sale the offence takes place once and for all when the house is sold, *i.e.*, when the conveyance is executed, or even when the house is offered for sale. How can we possibly give a different construction to the words 'sells or offers to sell' from the words 'lets or offers to let.'" Thus the proceedings before the justices were out of time. The offence was made by statute a summary one and that was all.

Parliament must have been assumed to have intended so obvious a result, and equally that local authorities must get information in such cases as best they can.

But what of the occupier who is paying more than the conditioned rent? The Lord Chief Justice referred to the registration of the conditions in the register of local land charges. Certainly if the occupiers had searched in that register they would have become aware of the restricted rent. But houses, especially new houses, are hard to come by at a rent anything

near the restricted rent, and, if a fuss had been made, whilst the owner might have been prosecuted, the occupier would probably not have got his lease.

Another thought—assuming he searched after he had got his lease. Would he be bound by the terms of his lease? The register of local land charges is notice to all the world of what is in it. No doubt but that the court would see that the owner did not keep his "profit" above the amount of the restricted rent, but that would not mean that the rent would be by that amount reduced to the occupier. It might be, and it might not be. It might be also reduced under threat by the tenant of exposure of the owner to criminal proceedings, but that introduces a new facet to this cloudy jewel. And if the tenant delayed his decision, or in any case if more than six months have elapsed between letting and information, no criminal proceedings are there to take. And the tenant could not go before the Rent Tribunal for his area because the house is not subject to their jurisdiction.

"EPHESUS."

CAPITAL EXPENDITURE AND THE RATES

Finance committees and councils up and down the country have concluded their surveys of estimated expenditure and income for 1953-54 and made their rates. Higher levies are the rule, and as the various increases have been published so protests have multiplied. Some of the protestants have their own explanations for the increases—not always according with the pronouncements of finance committee chairmen. Thus one popular daily believed that town halls were controlled by picturesque bodies known as old gangs who luxuriated at the ratepayers' expense and whose high living and inefficiency were responsible for rate increases: they should be swept away by ballot box verdict and replaced by new men who were strangers to deep pile carpets, municipal feasting and general profligacy, when all would be well. This attempt to make their readers believe that British local government was closely akin to municipal affairs in the United States of America as seen through Hollywood eyes probably led few astray: locally provided services and the men and women who control them are too widely known and respected for imaginative flights of this kind to be taken seriously. The truth, of course, is that rates in common with other things have risen because of increased wages and increased costs of materials: they have also risen for a reason peculiar to themselves, namely the need to finance the expanding social services which post war legislation has created and enlarged. Incidentally, shortly after the fulminations to which we previously referred the leader writer of the journal in question strenuously advocated substantial increases of pay for teachers. We do not know if it ever occurred to him that the cost of such a policy might cause a further big rate increase: all that can be said is that no hint of such a thought appeared in his printed words.

A county council finance committee chairman summarized the position more accurately when in explaining the rate increase which his budget demanded he said "The welfare state is upon us." This is true and so far the people of this island have shown themselves ready to pay for the services which the welfare state provides. What is not perhaps generally realized is that rate increases will continue if present development plans for the various services are put into operation and if the Government are not prepared to increase their subventions to local exchequers. As another county finance chairman put it: "The county's Development Plan for Education provides for new schools and colleges for primary, secondary and further education of various kinds. The Plan is yet in its infancy but development is proceeding, although slowly. The present capital cost of an average primary school is in the region of £55,000 and a secondary school will cost close on £150,000. And, of course, when we open a new school we are committed to further running costs. For example, the annual costs of running the typical schools I have just quoted would be £12,000 for primary and £35,000 for secondary. The balance of capital expenditure remaining to be met under the Education Development Plan is of the order of £30 millions. The same story applies to the other services although they are dwarfed by education requirements. So far we have provided places for 860 old people in our hostels. A survey shows that our total requirements are 1,400. The capital cost of providing this accommodation has averaged £570 per place. With yearly costs of £320 per person housed, the annual maintenance charge will total an additional £173,000. On the Children's Service similar conditions apply. Up to date we have provided three new small unit homes out of a total of fifty-three. The capital cost of each home is some £6,000 and the annual cost of maintaining the children they will accommodate, at £350 per child, amounts to £150,000. So far as the health committee are concerned we must look forward to the provision of new clinics and health centres, ambulance stations and other developments all of which will entail substantial expenditure both as regards capital and revenue. On the uniformed services of Police and Fire Brigade it would seem that the chief development may probably be in the erection of houses for personnel and new stations, although in each case there may be increases in the authorized strengths of the forces. During 1951-52 the annual cost per policeman was £891 and per fireman £715. It would be a delusion therefore to imagine that the rate increase which I shall propose today will not be followed in succeeding years by further increases." The outlook therefore is sombre: in addition there is another factor which has serious implications. Local authorities have for a few years been calling on their accumulated reserves to lessen rate increases and in many cases heavy drafts upon balances have continued in the 1953/54 estimates. This process necessarily must end, and with the removal of the cushion ratepayers will feel the full shock of some severe blows in the not distant future.

The general scope of the services provided by local authorities is laid down by the central government and unless Parliament calls a halt local legislators must press on with the implementation of the national plans, their discretion being limited to the speed of development and the method of financing the cost. These are important matters of high policy, the natural tendency to improve and expand rapidly having to be balanced against the resultant financial burden, but whatever the local decisions the burden will undoubtedly grow. A householder paying rates at 20*s.* in the £ on a house rated at £40 has quite a load and would be really hurt financially by a considerable poundage increase to, say, 30*s.* (not at all improbable in three or four years). In these circumstances councils will be driven to use all possible means of minimizing the increases, and some may have to look again at their policy regarding the financing of capital expenditure out of revenue and of providing for loan repayment. They may feel that more consideration must be shown to the ratepayers of today and more thought given to the assessment of the demands which can reasonably be made upon them. The Government discourage the financing of capital expenditure from revenue except to a restricted extent, laying down limits beyond which expenditure so financed will

not rank for various grants, and in present circumstances we feel bound to agree that the policy is sound. We consider also that methods of loan repayment should be reviewed in those areas concerned about rate burdens: in many cases loans are being repaid in shorter periods than sanctions require or by methods which impose the heaviest burdens in the earliest years of repayment. We are interested to observe that one large local authority, loudly vocal about the burden of rates in its area, has voluntarily accelerated repayment as recently as 1952 and thus increased its annual debt charges by a substantial sum. We are aware that acceleration of loan repayments or indeed doing without loans completely was thought prudent in the past but at this time of heavy national and local taxation we feel that it is sufficient in general to pay for the asset over the computed period of its life by an equal annual charge. To this rule there must necessarily be exceptions, such as items where total cost is small or where regularly recurring expenditure is involved, but these do not invalidate the general principle.

Another important point in favour of borrowing is that pay-as-you-go can be an inducement to extravagance. Once a thing has been paid for in full by the ratepayers of this year local legislators (urged on sometimes by enthusiastic departmental chief officers) may feel free to mulct the ratepayers next year of an equivalent sum of money to pay for another project which to them seems equally desirable.

We wonder whether members of finance committees are generally aware of the effect of pay-as-you-go on the rates of their authorities. The point has occurred to us because in examining the 1953-54 estimates of numerous authorities we have noted that in some cases the total of capital expenditure charged to revenue and its rate equivalent are not shown as separate figures. Charges against individual committees may be given but there is no total readily ascertainable and finance chairmen do not often mention it in their speeches. If they did, changes of policy might well be demanded more often than is now the case.

We think also on this point that there is room for improvement in one or two of the otherwise excellent returns of expenditure on various services prepared by the Society of County Treasurers and the Institute of Municipal Treasurers and Accountants. For example, the return of education expenditure (by far the largest spending service) gives no information at all about the amounts provided by individual education authorities.

WEEKLY NOTES OF CASES

COURT OF CRIMINAL APPEAL

(Before Lord Goddard, C.J., Lynskey and Parker, JJ.)

R. *v.* WEBB

April 27, 1953

Criminal Law—Sentence—Breach of order of probation or conditional discharge—Separate sentence to be passed—Criminal Justice Act, 1948 (11 *and* 12 *Geo.* 6, *c.* 58) *s.* 12 (1).

APPEAL against sentence.

The appellant pleaded Guilty at Essex Quarter Sessions to three counts charging housebreaking and larceny. He asked for twenty-eight outstanding offences and a breach of probation to be taken into account and received sentences of five years' imprisonment, to run concurrently, on each count.

Held, that in the case of a breach of a probation order or order of conditional discharge a separate sentence ought always to be passed so that the original order might rank as a conviction under the proviso to s. 12 (1) of the Criminal Justice Act, 1948, and only in exceptional cases should the sentences for the original and the subsequent offences be made to run concurrently, but in the present case the court would impose a sentence of two years' imprisonment in respect of the breach of the probation order, and would amend the sentence on the first count to one of three years' imprisonment and leave the sentences on the second and third counts to sentences of five years each, all the sentences to run concurrently.

No counsel appeared.

(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

QUEEN'S BENCH DIVISION

(Before Lord Goddard, C.J., Lynskey and Parker, JJ.)

R. *v.* MINISTER OF HOUSING AND LOCAL GOVERNMENT. *Ex parte* LONDON CORPORATION

April 29, 1953

Town and Country Planning—Purchase notice—Service by trustees—"Owners"—Town and Country Planning Act, 1947 (10 *and* 11 *Geo.* 6, *c.* 51), *s.* 19 (1), *s.* 119 (1).

MOTION for order of *certiorari*.

By a lease granted in 1925 the trustees of the estate of Alexander Jones deceased let premises and land at 69, Ludgate Hill, London, for seventy-five years at £750 a year, subject to a lease in 1873 for eighty years at £350 a year. In 1940 and 1942 the two leases were assigned to Hampton and Sons, Ltd. In 1922 the representatives of the lessee under the lease of 1873 had underlet the premises at £1,136 a year. In 1950 Hampton and Sons applied to the London Corporation for planning permission to re-build the premises which had been destroyed by enemy action, but permission was refused. Hampton and Sons then served a purchase notice on the corporation under s. 19 (1) of the Town and Country Planning Act, 1947, requiring the corporation to purchase their interest in the land. This notice was transmitted to the Minister of Housing and Local Government, who confirmed it, and in 1951 the leasehold title to the land was transferred to the corporation for £71,250. In 1952 the trustees, having been refused permission to re-develop the site, purported to serve a purchase notice under s. 19 (1) of the Town and Country Planning Act, 1947, on the corporation requiring the corporation to purchase their interest in the land, that is to say, the fee simple, which still remained in them. The corporation transmitted a copy of the notice to the Minister, who, after an inquiry, confirmed the purchase notice on Dec. 31, 1952.

The corporation contended that the trustees were not the owners of the property within s. 19 (1) or s. 119 (1) of the Act of 1947, and, therefore, that the notice related to an interest which could not properly be the subject of a purchase notice. For the trustees it was argued that the Minister was not concerned in deciding whether the server of the notice was the owner or not, but that his duties were limited to considering the conditions specified in s. 19 (1).

Section 19 (1) of the Town and Country Planning Act, 1947, provides: "Where permission to develop any land is refused, whether by the local planning authority or by the Minister . . . then if any owner of the land claims—(*a*) that the land has become incapable of reasonably beneficial use in its existing state . . . he may . . . serve on the council of the county borough or county district in which the land is situated a notice (hereinafter referred to as a "purchase notice") requiring that council to purchase his interest in the land. . . ." By s. 119 (1) of the Act: "'Owner' in relation to any land, means . . . a person, other than a mortgagee not in possession, who, whether in his own right or as trustee or agent for any other person, is entitled to receive the rack rent of the land or, where the land is not let at a rack rent, would be so entitled if it were so let. . . ."

The corporation obtained leave to apply for an order of *certiorari* to quash the order of the Minister.

Held, that no different interpretation of the word "owner" in s. 19 (1) was required from that provided by s. 119 (1); the trustees having parted with the possession of the land and having no power to let it, the only persons entitled to the rack rent were the corporation; and, therefore, the trustees, not being the owners as defined by s. 119 (1), were not entitled to give a purchase notice under s. 19 (1) and the notice was, accordingly, a nullity. *Certiorari* must, therefore, issue to quash the order.

Per LYNSKEY, J. If the jurisdiction of the Minister to make the order was challenged, it fell to him to satisfy himself by making the necessary inquiries that he had jurisdiction to deal with the matter.

Counsel: *Harold Williams, Q.C.*, and *Derek Walker-Smith*, for the corporation; *H. Heathcote-Williams, Q.C.*, and *R. E. Megarry*, for the trustees,; *J. P. Ashworth* for the Minister.

Solicitors: *The Comptroller and City Solicitor*; *Boxall and Boxall*; *Solicitor, Ministry of Health* and *Solicitor, Ministry of Housing and Local Government*.

(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

DEFIANT CYCLE CO., LTD. AND OTHERS *v.* NEWELL
April 28, 1953

Statutory Instrument—Validity—Schedules not printed—No certificate of exemption from printing—Statutory Instruments Act, 1946 (9 *and* 10 *Geo.* 6, *c.* 36), *s.* 3 (2).

CASE STATED by Middlesex justices.

At a court of summary jurisdiction informations were preferred by the respondent, Newell, charging the appellants, the Defiant Cycle Co., Ltd., and two directors, Harry Bernard Simmonds and Arthur MacNay, with offences against the Iron and Steel Prices Order, 1951, and reg. 55AB of the Defence (General) Regulations, namely, selling, at a price above the permitted maximum price, steel of a class for which a scheduled maximum price was in force.

An assistant secretary in the Ministry of Supply, whose duties included the making of arrangements for the printing of statutory instruments, decided, having regard to provisions of reg. 7 of the Statutory Instruments Regulations, 1947, that the printing of the deposited schedules in the Iron and Steel Price Orders was unnecessary. In deciding that, the secretary had regard, primarily, to the bulk of the deposited schedules, and to the facts that copies were distributed by the Ministry and that relevant parts of the schedules would be distributed to the trade. The secretary, when sending the copies, also sent a letter in which she stated that the statutory instruments had been certified under reg. 7 to be exempted from printing. No certificate was in fact produced. The justices came to the conclusion that the price orders were valid and in force and that the charges were proved, and they convicted and fined the appellants, who appealed.

Held, that the letter written by the secretary did not amount to a certificate, and, therefore, no certificate under reg. 7 was ever issued, and, the defence under s. 3 (2) of the Statutory Instruments Act, 1946, that reasonable steps had not been taken to bring the import of the instrument to the notice of the public being *ex concessis* available to the appellants, the convictions must be quashed.

Counsel: *Lord Hailsham, Q.C.*, and *James Burge*, for the appellants; *Sir Reginald Manningham-Buller, Q.C.* (*S.-G.*), and *J. P. Ashworth*, for the respondent.

Solicitors: *Lucien Fior*; *Treasury Solicitor*.

(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

LAW AND PENALTIES IN MAGISTERIAL AND OTHER COURTS

IMPORT CERTIFICATES FOR STRATEGIC GOODS AN UNUSUAL CASE

On April 21, 1953, a case, stated to be the first of its kind, was heard at Old Street Magistrates' Court. It was alleged against a limited company that on or about January 17, 1952, being a person to whom an import certificate had been issued on December 14, 1951, in relation to the export of 100 tons of pig lead from Holland, (1) they permitted the lead to be imported into a country other than the United Kingdom without the authority of a licence granted by the Board of Trade, (2) they disposed of the lead before it had been imported into the United Kingdom without the authority of a licence granted by the Board of Trade, contrary to art. 1 of the Control of Goods (Import Certificates) Order, 1951 (S.I. 1951 No. 1016) and to reg. 55 of the Defence (General) Regulations, 1939. A dealer in lead, AB, was summoned for aiding and abetting in the commission of the offences.

The Order came into operation on June 14, 1951. The Board of Trade at once issued a notice to importers which was published in the Board of Trade Journal. It stated that in future an exporter in another country may, in cases where his own government requires to be satisfied that strategic goods ordered by an importer in the United Kingdom will in fact be imported into the United Kingdom, ask his customer to produce an import certificate. An importer in the United Kingdom who receives from his overseas supplier such a request should apply to the Board of Trade. On the issue of an import certificate the importer will be bound by the Order and may not, therefore, except under the authority of a licence granted by the Board of Trade under the Order (*a*) import the goods, particulars of which are given on the import certificate, into any country other than the United Kingdom; (*b*) dispose of those goods before they have been imported into the United Kingdom; or (*c*) export those goods from the United Kingdom after they have been imported there.

At the beginning of December, 1951, the company received an inquiry from AB about lead. The company contracted with their suppliers in Amsterdam to supply 100 tons of pig lead f.o.b. Genoa—direct shipment to Rotterdam with Austria as the ultimate destination, and subject to obtaining the necessary licences. The value was over £20,000. They also contracted to sell the lead to AB. The Dutch exporter told the company that the authorities in Holland required certificates of destination. Application was accordingly made by the company to the Board of Trade for an import certificate and one was issued on December 14, 1951. Embodied in this certificate was a declaration undertaking to import the goods specified into the United Kingdom. When an official in the Import Licensing Branch of the Board of Trade realized that the goods were destined for Austria, he informed the Export Licensing Branch and got in touch with AB, informing him of the necessity of a waiver certificate if he wanted to dispose of the goods before importation into the United Kingdom. Forms were sent to AB, who personally requested the Company to attend to the licence for him. In the meanwhile AB contracted to sell the lead to another company, and finally the lead was disposed of to a country outside the United Kingdom. No waiver certificate was ever granted by the Board of Trade as they were not satisfied that the material in question was destined for Austria as first informed. The prosecution witness to prove the final disposal was not forthcoming so that count No. 1 was dropped.

Letters of credit were opened at a bank. The pig lead arrived in Rotterdam about January 17, 1952, and the documents including the bills of lading were passed from the company to AB, through the bank acting as go between. The company maintained that their application to the Board of Trade for a waiver certificate was done on behalf of AB, and in a letter sent with the documents they did point out that until an export waiver certificate was issued the goods were only and exclusively free for import into this country as shown on the import certificate. AB complained that he was not given the full facts about licences until January 17, when it was too late, because the goods had been sold to another company.

It was submitted that the date of "disposal" was considerably prior to January 17, 1952, the date given on the summonses but in view of the evidence and s. 19 (2) of the Sale of Goods Act, 1893, the submission was overruled.

The learned magistrate, Mr. Harold Sturge, in giving judgment said, "This is an important case. Some defence regulations have been criticized on the ground that their need in the public interest was by no means beyond doubt. In this case the need for this regulation must be beyond doubt. It deals with no less a subject than international security. The regulation is a simple one, the wording is in simple English and the intention is clearly that the Government should be able to prevent, as far as may be possible, strategic goods going to countries in which an accumulation of such goods might affect the possible balance of power in Europe or elsewhere. In fairness I must say that there is no suggestion in this case that either the company or AB, knew the ultimate destination of the goods. It is suggested that the goods ultimately found their way to Russia. What I am concerned with is the simple regulation that once goods are made the subject of an import certificate they are not to be disposed of in any way whatever without the authority of the Board of Trade. A representative of the defendant company has made a candid statement supported by documents. He has sought to show that he did his best and was rather rushed into the matter by AB. AB, says the opposite—that he was rushed into it by the company's representative. It does not matter. When dealing with international security, the rule is there and has got to be kept. I think it fair to distinguish between the two defendants. The penalties must reflect to some extent—although they will be far short of the maximum—the grave importance of the regulation concerned. On the second summons the company will be fined £250 and 50 guineas costs and AB will be fined £500 and 100 guineas costs."

COMMENT

Section 19 (2) of the Sale of Goods Act, 1893, which was called in aid by the prosecution to rebut the submission by the defence outlined above, provides that where goods are shipped, and by the bill of lading the goods are deliverable to the order of the seller or his agent, the seller is *prima facie* deemed to reserve the right of disposal.

The terms of the statutory instrument infringed by the defendants undoubtedly deserve the praise given to them by the learned magistrate in the course of his judgment. It is indeed rare in the writer's experience that the intention of any statutory instrument is expressed

with such clarity, and in so few words, as in this case, and it would help to make life a good deal easier for lawyers if draftsmen hereafter were to seek to emulate the example given by S.I. 1016 of 1951.

(The writer is very much indebted to Mr. E. Turrill, the Deputy Chief Clerk, Old Street Magistrates' Court, for a full report of this case.) R.L.H.

PENALTIES

Abingdon—April, 1953—wilful damage to property (two defendants) twenty-seven charges. A twenty-four year old man and a sixteen year old boy pleaded guilty to all charges except six, and these were dismissed. The man was ordered to pay a total of £16, and the boy £14. Considerable damage was found to have been done one morning to walls and gate posts along the front of a building estate. Defendants stated that the damage was done after drinking.

Long Ashton—April, 1953—(1) indecent assault, (2) breach of probation order. Defendant, a sixty-five year old retired postman, pleaded guilty to the first charge which related to a nine year old girl. He had been placed on probation in 1951 for a similar offence, and asked for a similar charge relating to a six year old boy to be taken into account. Defendant was fined £25 for breach of probation and ordered to pay £12 costs; he was placed on probation for a further three years.

Bath Quarter Sessions—April, 1953—office breaking and stealing £68 therefrom. Fined £150. Defendant, a twenty-three year old car dealer was ordered to pay the fine at the rate of £8 a month. It was agreed by the police that at least two other persons were involved and the defence urged that the crime was planned by someone else.

Birmingham—April, 1953—(1) stealing a Jaguar car while bailee, (2) stealing a Wolseley car while bailee. Four months' imprisonment. Defendant, a girl of twenty-six, was left £9,000 by her mother when twenty-two—she developed a great fondness for cars and between November, 1948, and January, 1951, bought and re-sold eight cars and a motor cycle. She bought the Jaguar on hire purchase and when a balance of £778 was outstanding sold the car for £1,350, without the owner's permission and not mentioning the hire purchase. She sold the Wolseley for £490 when over £600 remained due on it. She was made bankrupt in August, 1951, with a deficiency of about £1,300.

Salisbury—April, 1953—wilfully damaging a window to the extent of £14 (three defendants). One defendant with no previous convictions was fined £1, and the other two, each with one previous conviction, were fined £2 each. Each defendant was ordered to pay £4 13*s.* 4*d.* to meet the cost of the damage.

Dudley—April, 1953—shop lifting—two defendants. Each fined £25. Defendants, married women aged twenty-four and twenty-eight, went four times in one day to local shops and stole. They took a variety of articles including cardigans, brassieres, handbags, pencils and biscuits of a total value of £10.

REVIEWS

The Profits Tax. By Roy Borneman and Percy F. Hughes. London: Taxation Publishing Company, Ltd. Price 21s. net.

The profits tax as now existing is based upon a simple principle, but is difficult to understand and administer because of complications introduced in its history. It began with the national defence contribution in 1937, and the principle has been pulled about in response to political exigencies. The present law rests mainly upon the Finance Act, 1947, but it has been necessary for the learned editors to retain a good many references to previous law, without which the present law can hardly be understood. Mr. Borneman is a leader of the Bar specializing in such matters, and Mr. Hughes an accountant who is assistant editor of *Taxation*. Their collaboration has resulted in reliable statements of the law, and illuminating examples of its working. Indeed these practical examples form a large part of the book. In places the page is difficult to read, perhaps through some fault of the paper and the type, but (as against this) the table of cases has the merit of giving full alternative references to reports—even though we think it is a mistake to omit dates from references to those reports, where the date is not an essential part of the reference. The profits tax is important to large sections of the commercial world, and so to their legal and financial advisers, and the book before us can be relied upon with confidence as a guide for those concerned.

Taxation Manual. Compiled under the direction of Ronald Staples. London: Taxation Publishing Company, Ltd. Price 20s. net.

This is a handbook, of small size considering the wide ground covered, produced by the Taxation Publishing Co., and stated on the title page to be "compiled by barristers and experts" under the supervision of the editor of *Taxation*. Since it is the seventh edition of a publication which last appeared in 1950, it has evidently been found to serve a useful purpose. Since that year there has been the monumental consolidation effected by the Income Tax Act, 1952, and further changes made by the Finance Acts; the present edition refers both to the new law and to the old—which will be helpful to the reader. The primary object is to provide a ready means of access to the interpretation and practical effect of the law relating to income tax and surtax: the title is thus (perhaps) a little misleading, since it is only those two taxes which are dealt with. The great majority of cases cited are given references only to the *Tax Cases* issued by the Board of Inland Revenue. We think this is a mistake, since the ordinary practitioner does not subscribe to that series, invaluable as it is recognized to be by lawyers and accountants who are taxation specialists. Moreover, no dates are given in the table of cases, except where the date forms an essential part of the citation. The reader cannot, therefore, tell from that table what is the relation between a case and the statute law. The fact that there is no table of statutes in the usual form may not be important, since the number of statutes dealt with is comparatively small, and there is an appendix showing the relation between previous statute law and the Act of 1952.

We do not think the work would fulfil the requirements of a legal practitioner writing an opinion, but we suppose the answer of the editor and publisher would be that it is not meant to do so. As a key to the law for quick reference, with sufficient information to show where fuller treatment can be found, it seems admirable. It has also the merit (not always possessed by comparatively inexpensive handbooks) of being clearly set out and well printed. For students in particular it should be useful, and the practitioner in taxation matters is likely to find it quite helpful as an adjunct to *Simon* or other major works.

THE WEEK IN PARLIAMENT

From Our **Lobby Correspondent**

MAXIMUM PENALTIES

Mr. R. S. Russell (Wembley S.) asked the Secretary of State for the Home Department in the Commons whether, in view of the fall in the value of money, he would review the maximum financial penalties laid down in Acts of Parliament passed before August, 1914, to satisfy himself that they still had a deterrent effect.

The Secretary of State for the Home Department, Sir David Maxwell Fyfe, replied that the question whether the maximum penalty for any particular offence should be changed was always considered when relevant legislation was amended, but it would be a formidable task to review the penalty provisions in all statutes enacted before August, 1914. Courts were required to take into account the means of an offender when fixing the amount of a fine to be imposed within the limits prescribed by the law, and he had no reason to believe that the existing limits were not generally adequate.

PARKING OFFENCES

Sir David states in a written answer that in 1952, there were 18,075 prosecutions in the Metropolitan police district for obstruction by motor vehicles, and 969 for obstruction by horse-drawn and hand-propelled vehicles. There were 7,503 prosecutions in respect of motor vehicles waiting in a "no waiting" street, and 1,383 such prosecutions in respect of horse-drawn and hand-propelled vehicles. There were 103 prosecutions under s. 50 of the Road Traffic Act, 1930, in respect of vehicles left in a dangerous position.

PEDAL CYCLES

Mr. S. J. McAdden (Southend E.) asked how many cyclists had been prosecuted in the last twelve months for using cycles without efficient brakes.

Sir David replied that he understood that the use of a pedal cycle without efficient brakes was not of itself an offence.

CAPITAL PUNISHMENT

Sir David told Mr. Hector Hughes (Aberdeen N.) that he understood that the Royal Commission on Capital Punishment was not proposing to submit an interim report.

PREVENTION OF CRIME BILL

The Prevention of Crime Bill received a Third Reading without a division in the House of Lords.

PARLIAMENTARY INTELLIGENCE

Progress of Bills

HOUSE OF LORDS

Tuesday, May 5

AUXILIARY FORCES BILL, read 1a.
PREVENTION OF CRIME BILL, read 3a.
IRON AND STEEL BILL, read 3a.
PHARMACY BILL, read 2a.

Thursday, May 7

WHITE FISH AND HERRING INDUSTRIES BILL, read 2a.
ROAD TRANSPORT LIGHTING (REAR LIGHTS) BILL, read 2a.

HOUSE OF COMMONS

Wednesday, May 6

LOCAL GOVERNMENT SUPERANNUATION BILL, read 3a.

Thursday, May 7

FINANCE BILL, read 2a.
ARMY AND AIR FORCE (ANNUAL) BILL, read 2a.

Friday, May 8

NAVY AND MARINES (WILLS) BILL, read 2a.

THE NEW BUILDING BYELAWS

Most county boroughs and county districts will by now have considered the new Model Building Byelaws issued last autumn by the Ministry of Housing and Local Government, and a number of authorities will have submitted their drafts, based on the Model, for the Ministry's observations. In spite of considerable thought and consultation before the Model was issued, a few errors have crept into the published series (such as, *e.g.*, the omission to apply the enforcement clause of Part V to cases of material change of user in Model Byelaw 5, and the failure to require expressly that the notice to be given under byelaw 6 (1) should be in writing); it is understood, however, that the Ministry have accepted the existence of these errors, and that appropriate amendments are being incorporated in all drafts submitted to them. Apart from such "drafting" amendments, and some improvements to the Fourth Schedule (Table B), we have not yet heard of any major alterations to the Model being accepted by the Minister. In circular 82/52, which accompanied the original issue of the Model, the Minister stated that only those variations from the Model would be approved which were essential in the light of special local circumstances. Suggested improvements which would be of general application are, not, therefore, it seems, to be approved. Some local authorities are accepting this situation, but others differ from the Ministry on points of general principle, and it may be that they will succeed in some measure in securing amendments in spite of the circular. It will be interesting to see how far the pressure of locally elected councils, in a sphere wherein they have been vested with some discretion by Parliament, will be able to prevail against the desire for uniformity of the Ministry.

It is quite impossible in an article of this kind, even to summarize the Model, but it is proposed to deal with a few of the points that will arise in the application of the new series, from a legal and an administrative, rather than from a technical point of view.

(i) "*Deemed to satisfy*" *clauses.* An outstanding feature of the new Model, designed to admit of flexibility in application, is the device of the "deemed to satisfy" clause. These clauses (printed in italics in the Model) work in this fashion: first comes a clause requiring a particular feature to perform a certain function—*e.g.*, byelaw 22 (1) requires the load-bearing structure of a building to be capable of sustaining and transmitting the loads to which it may be subjected. This clause is then followed by one or more "deemed to satisfy" clauses, providing that the initial requirement shall be deemed to have been satisfied if the particular work complies with certain specified standards, in most cases laid down by particular British Standard Specifications or Codes of Practice, but in some cases (*see, e.g.*, byelaw 30, damp-proof courses), as detailed in the byelaw itself. Thus, byelaw 22 (1) is followed by a number of clauses (byelaws 23-27), providing that the various types of structural work shall be deemed to satisfy byelaw 22 (1), if the standards there mentioned are complied with.

A particularly important application of the "deemed to satisfy" method of drafting is to be found in byelaw 13, materials. This clause provides, *inter alia*, that all materials shall "be of a suitable nature and quality for the purposes for which they are used," and then provides that this requirement shall be deemed to have been satisfied if the particular materials used comply with the *appropriate* British Standard Specification or Code of Practice. The word appropriate is of vital importance, for there may be several Specifications and/or Codes of Practice for the same materials or method of preparation, applicable for different purposes.

As a result of this provision, and of the other "deemed to satisfy" clauses, a very large number of British Standard Specifications and Codes of Practice are actually or virtually

incorporated into the byelaws, and all these will have to be consulted when applying the byelaws to particular proposals. It should be noted, however, that a particular byelaw requirement (*e.g.*, 22 (1), above) may be satisfied by means other than by compliance simply with the appropriate British Standard Specification ; but in such a case, the applicant will have to satisfy the local authority that the requirement would in fact be complied with. As a further consequence of these clauses, it is thought that many local authorities will have to employ more staff, or at least occupy more time, on byelaw administration, as the old system of applying rule of thumb tests to deposited plans will no longer be appropriate. The lawyers also should benefit, for if a prosecution were brought in respect of an alleged contravention of the new byelaws, there should be ample room for argument on either side as to whether a particular material, work or method complies with the relevant requirement, or satisfies the appropriate British Standard.

(ii) *New Provisions.* A number of matters are dealt with in the new Model either more fully, or in a different manner from the provisions of the former series published in 1938. Fire resistance (which must be distinguished from incombustibility) and the thermal insulation of houses, which are dealt with in considerable detail in the new Model, were scarcely mentioned in the old series. Omissions also are worthy of note. For instance, some local authorities are regretting that the opportunity has not been taken to make provision for some measure of sound insulation of domestic buildings, and once again s. 104 (2) of the Public Health Act, 1936 (which enables building byelaws to require the provision in new buildings other than houses " of such arrangements for heating and cooking as are calculated to prevent or reduce the emission of smoke ") has not been utilized.

The requirement as to the ventilation of habitable rooms (byelaw 79) is a relaxation, to some extent, of the former standards ; the minimum amount of open space at the rear of buildings required in normal cases will be 300 sq. ft., instead of 150 sq. ft. (byelaw 74). The minimum ceiling height of a room has been reduced from 8 ft. to 7 ft. 6 ins. (byelaw 83), and the provisions as to the siting of cesspools (byelaw 106) are changed. In the old series, cesspools were required to be sited not less than 50 ft. from a dwellinghouse, or 60 ft. from a well or stream ; in the new Model, a more practical requirement is included to the effect that a cesspool may not be sited in such proximity to a dwellinghouse or public building, etc., as to be liable to become a source of nuisance or a danger to health, *or* in such a position as to render liable to pollution any spring or well, etc., used, or likely to be used, for drinking or domestic purposes.

It is interesting to note that under the new byelaws, s. 14 of the Statistics of Trade Act, 1947, which enables a local authority to provide in the byelaws for particulars of the cost of building operations to be stated, has not been incorporated. The effect of this section was deemed to have been incorporated into all byelaws in force at the time of the passing of the 1947 Act, but its express mention would be necessary to secure its application in new byelaws. It is understood that the Ministry's view is that the section is no longer necessary, as the information provided is available to the Government from other sources.

(iii) *Commencement of the new byelaws.* The existing byelaws of local authorities will remain in force until the new byelaws have come into operation, or at least until June 30, 1953, whichever date is the earlier (Building Byelaws (Extension of Operation) Order, 1952, S.I., 1952, No. 2087, made by the Minister of Housing and Local Government under s. 68 of the Public Health Act, 1936). It is stated, however, in Circular 30/53 that the Minister has decided to extend by a further order, the operation of existing byelaws until December 31, 1953 (where necessary), owing to the appreciable time that has to elapse in the course of the making of a particular set of byelaws. In connexion with the confirmation procedure, it should be remembered that, in addition to the normal provisions as to advertisement of newly made byelaws contained in s. 250 of the Local Government Act, 1933, an advertisement must also be inserted in the *London Gazette* (Public Health Act, 1936, s. 61 (3)).

J.F.G.

"WARLOCKS OF THE WORLD, UNITE!"

Appropriately on May 1, startling news has been reported by the Special Correspondent of the *News Chronicle* in Lisbon. The witches of Portugal have written to a local newspaper protesting against defamatory allegations calculated to bring their activities into hatred, ridicule or contempt. The remedy proposed is to form a Trade Union to protect their interests, and further developments will be eagerly awaited.

It would ill befit this Journal to add fuel to the flames of controversy, and in the interests of international comity we hesitate to say anything that might be offensive to Britain's oldest Ally. And we particularly disclaim any lack of respect towards those of its nationals who adorn a profession that can claim an antiquity even more venerable than our own. We have generally been apt to regard witchcraft less as a basic industry than as a learned profession ; but since its Portuguese practitioners have chosen to term their projected organization a Trade Union rather than an Incorporated Society of Witches, we can only conclude that they attach more importance to its vocational than to its academic side. We first congratulate these members of a sister profession on having so far escaped investigation by any un-Portuguese Activities Committee. Next, we feel it our duty to consider dispassionately both the legal liabilities of its members and the probable results of the innovation proposed. New ideas travel fast in these days, and before we know where we are we may find an affiliated body set up over here.

We do not pretend to any specialized knowledge of the law of Portugal, and we wonder whether, and to what extent, the tort of nuisance is recognized by its Courts. In England a nuisance may arise where the defendant, by using his premises for special, extraordinary or non-natural purposes, or by interference with the course of natural agencies, injures the health or comfort of the plaintiff in the ordinary and legitimate enjoyment of his property (*Robinson* v. *Kilvert* (1889) 41 Ch.D. 88). The principle has been applied to cases of poisonous substances, noxious fumes, steam, smoke, smells, electrical discharges, noises and vibrations.

We have come reluctantly to the conclusion that these principles of the common law would afford a right of action to the occupier of premises contiguous or adjacent to any place where the occult practices of the Black Art may be carried on. It is apprehended that the concoction of a Witches' Brew (containing some or all of the usual ingredients of newt's eye, frog's toe, Jew's liver, Turk's nose, baby's finger, and a sprig or two of hemlock) would be likely to give rise to noxious fumes and odours, the prevalence of which would undoubtedly entitle the neighbours to the award of damages and the grant of an

injunction. In suitable cases the intervention of the local sanitary authority might also be invoked, or penalties imposed under the provisions of the Town and Country Planning Act, 1947, for unauthorized user of the defendants' premises. Midnight performances of the Black Mass and the celebrations attendant thereon, involving the temporary accommodation in the house of a number of black goats, and noisy ritual dances continuing into the small hours, are liable seriously to interfere with the amenities of any residential area, and the Court would no doubt lend its support to the victims of such disturbance. The failure of any defendant to keep his (or, more probably, her) familiar under proper control, and of allowing it to escape and do damage to neighbouring properties, would doubtless fall within the rule in *Rylands* v. *Fletcher* (1868) L.R., 3 H.L. 330.

But there are many loopholes in the law. It is an offence to navigate an aircraft at an unreasonably low altitude over any urban area, but the authorities we have consulted express serious doubt whether the statutory definition of " aircraft " includes a broomstick, which (as everybody knows) is the standard form of conveyance for witches. An action for trespass, on the strength of the maxim *cujus est solum ejus est usque ad caelum et ad inferos*, might possibly succeed, though service of the writ would present considerable difficulty, since the defendant would, as likely as not, have disappeared, or changed herself into a cat, by the time the process-server arrived.

We must next consider those manifold activities of the witches' art which are directed *in personam* rather than *in rem*. On general principles one would be inclined to say that any act by the defendant, even though falling short of assault, indirectly causing the plaintiff to suffer spasms or cramps in his person, or (*a fortiori*) turning him into a toad, constitutes an actionable tort. Whether these inconvenient results are brought about by spells or incantations, or by misuse of a waxen image, appears to be immaterial. It has long been the law of England that, where there is both *damnum* and *injuria*, indirectly caused by the defendant's act, an action on the case will lie (*Day* v. *Brownrigg* (1878) 10 Ch.D. 294).

Finally, there is the question of negligence. Liability thereunder, as every lawyer knows, may exist independently of contract, though in the nature of things the duty to take care would normally arise from the special relationship between sorcerer and client.

It is related in *The Golden Ass* how Lucius, relying upon the professional skill and judgment of Fotis (who was taking a course under Articles to a Thessalonian witch), received from her a magic ointment warranted to change him into a bird ; and how the careless girl handed him the wrong specific, with the result that he grew hoofs, long ears and a tail, and became, to all outward semblance, an ass. Goethe has described, in a famous poem, how a sorcerer's apprentice, in his master's absence, set in motion a spell that gave life to a broomstick ; how the horrible creature, at his command, fetched bucket after bucket of water, until the room was nearly inundated ; and how, having forgotten the words appropriate (so to speak) to repeal the act, he was saved from drowning only by his principal's timely return. Both these cases concerned the activities of unqualified persons, and therefore involve some question of contributory negligence on the plaintiff's part ; but mistakes will occur even in the best-regulated practices, and every wizard should be encouraged to take out a Lloyd's Policy to guard against such disagreeable contingencies.

How, then, will the situation be modified by the formation of a Witches' Trade Union ? Collective bargaining will of course become general, and the Minister of Labour is sure to be urged to issue, under his statutory powers, some form of Sabbath (Witches') Observance Regulations. Industrial law will be otherwise little affected. Reference to the Trade Disputes Acts dispels any hope of action against the Union itself, or of having recourse to its funds, for payment of damages in respect of any tortious act committed by or on behalf of the Union in furtherance of a trade dispute ; but outside such disputes aggrieved persons could sue the Trustees in the event of unfair practices on its behalf. Despite recent legislation, the establishment of a political fund would still be permissible to enable sponsored witches to stand as candidates in Parliamentary Elections. It is premature to speculate how far the public would be protected, under the present law, against vote-catching by spells and enchantments, but it is safe to prophesy that some extension of the Corrupt and Illegal Practices Act, 1883, would be desirable. The probable results inside the Trades Union Congress are likely to be more serious, and the General Council will no doubt be cautious in its reception of any request from the Witches' Union for recognition and affiliation.

A. L. P.

TOWN AND FAMILY PLANNING

Now I'll tell the facts, how the Planning Acts,
  Replacing old conventions,
Brought Legal Aid to a modern maid
  With amorous intentions.

After long delay by her fiancée,
  To end procrastination,
She defined her man on the County Plan
  As under designation.

Then the Plan was lodged and although he dodged
  In strong forensic action,
He was much aggrieved for the Plan received
  Ministerial satisfaction.

When he heard the news of the Minister's views,
  In cold anticipation,
He prepared, to meet her Notice to Treat,
  A claim for compensation.

There were large amounts under many counts,
  And such was his deflection,
He included one on her Global Sum
  For injurious affection.

So his claim soon came to the waiting dame
  For her consideration,
But as he and she could not agree,
  It went to Arbitration.

The Tribunal called was so enthralled
  With their negotiations,
That with one accord they did award
  Each side congratulations.

" Thus the sides here named," the Chairman claimed,
  " Get justice to the letter,"
" For the sides above, will unite—for love."
  Could Cupid have done better ?

So the parties wed and it now is said,
  They live mid'st childish laughter,
And the couple say its planned that they
  Live happily ever after.

A.B.B.

PRACTICAL POINTS

All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1.—Evidence—*Leading questions—Indecent assault and similar offences.*

Cases of indecent assault and other similar sexual offences often arise where the main witness for the prosecution is a child of tender years, a young girl or a woman from whom it is extremely difficult, in examination-in-chief, to obtain the exact details of the incidents that have occurred. Indeed, in the cases of very young children, it is sometimes impossible to get any answer to questions. Detailed statements have, in most cases, been made by the witnesses out of court, but due almost entirely to nervousness, shyness and natural embarrassment having regard to the nature of the offence, it is difficult to obtain the evidence in court.

I believe that there is some provision made to meet cases of this kind, which permits leading questions to be put in examination-in-chief (obviously within certain limits) in order to assist this type of witness. I am entirely unable to find such provision, which I think may well be included in some case law since it does not appear that there is any statutory provision of this nature. I should be greatly obliged to know whether this is so; and if so would you please refer me to the appropriate authority. SEG.

Answer.

We are not aware of any case laying it down that in such circumstances leading questions as to the facts in issue may be put in examination-in-chief. So far as children and young persons are concerned, the exercise of the power conferred by s. 37 of the Children and Young Persons Act, 1933, to clear the court, may prove effective to remove some of their nervousness and embarrasment.

2.—Food and Drugs—*Milk—Glass in bottles—What offence?*

I am having frequent reports to the effect that children are finding small pieces of glass in the school milk. Sometimes, unfortunately, the children suffer minor injuries, for instance, cutting their tongues, but it can be obviously much more severe injuries would result if the glass was swallowed. Sometimes, also, there is evidence of the tops of the bottles being chipped.

In due course of time, I am to report to my council upon the nature of any proceedings that might be brought, but I am afraid that I can find no direct offence.

I have considered s. 9 of the Food and Drugs Act, 1938, and possibly even s. 3, although, since glass is not an adulterant, I am inclined to the view that the section is not applicable.

You will realize, I am sure, as I do, that some strong measure must be taken to make sure that milk retailers and wholesalers send out the school milk in sound receptacles, and I would therefore value your opinion as to the most appropriate authority under which proceedings might be taken. SLAG.

Answer.

In our opinion a charge would lie under s. 3 on the ground that milk containing pieces of glass is not of the substance (or of the quality) demanded by the purchaser, inasmuch as he must be taken to demand milk free from such injurious substances. An alternative charge would be under s. 9, on the basis that milk containing glass which may injure those who drink it is unfit for human consumption, and where there is evidence of children being cut in the mouth or the tongue, or where the particles are small enough to be easily swallowed, the case is all the stronger.

3.—Housing Act, 1936—*Recovery of Possession of Condemned Houses.*

Reference is made to s. 155 (i) of the Housing Act, 1936, and also to s. 1 of the Small Tenements Recovery Act, 1838, and to the article regarding the general application of the latter enactment which appeared in your issue of October 25, 1952.

This council made a demolition order which became operative, but before the date specified in the order for the vacation of the premises the council re-housed the tenant thereof without having first served upon him a notice to quit under s. 155 (i) above referred to.

A further person then almost immediately entered into occupation of the premises ostensibly without knowledge of the demolition order, and without the connivance of the landlord.

The local authority has, since the expiry of the date referred to in the order for vacation of the premises, served notice to quit on the person now in occupation.

It is suggested that the notice to quit which the council have served is valid, and that the correct way to enforce it is to make complaint in the normal way to the court without the necessity for serving the special written notice referred to in s. 1 of the Small Tenements Recovery Act.

Can you please advise on the following points:

(1) Is the notice served a valid notice under s. 155 (i)?

(2) How do the council proceed "to make complaint to a court of summary jurisdiction"?

(3) If the council do have to serve a written notice of the kind referred to under s. 1 of the Small Tenements Recovery Act, it would appear that considerable adaptation of the form set forth in the schedule to that Act would be necessary. Is this permissible in this class of case, notwithstanding the cases referred to in your contributor's article? PUSH.

Answer.

(1) Yes, if it complied with s. 155 (1) of the Act of 1936 so that the time for quitting was twenty-eight days after the service of the notice.

(2) Form 1 in the Act of 1938 is not required. The complaint may be made as in form 2 with considerable adaptation for the purpose or the general form of complaint bringing the subject of complaint before the justices.

(3) This does not arise. In any case it is not the Act of 1838 which is applied but a power given to complain and a power and duty given to the justices to issue a warrant in the 1838 Act form or a form to the like effect. There cannot, therefore, be any conflict with the article referred to.

4.—Landlord and Tenant—*Rent Restrictions Acts—Tenant imprisoned.*

A tenant protected by the Rent Acts was sentenced to four years' imprisonment. He is a single man, and was living alone. The landlord of the house, who, shortly before the conviction, had purchased it and the adjoining house (in which he lives) served a notice to quit on the tenant. The tenant wrote a letter evidencing a clear intention to return (copy letter enclosed). The tenant's furniture is still in the house and he has in the neighbourhood a relative who is willing and able to keep the house cleaned and aired. The landlord has, so far, declined to let her into the house or to accept rent. He wishes to proceed to obtain possession by proceedings under the Small Tenements Recovery Act.

It is thought that the matter is within the principles laid down by the case of *Brown* v. *Brash and Ambrose* [1948] 2 KB. 247, except for the fact that the relative, who would act as a caretaker, would not live in the house, having a house of her own nearby. Would visits amount to "continued occupation by some person installed by the tenant with the status of a licensee."

Your opinion on this point would be appreciated. PION.

Answer.

The tenant clearly has an *animus possidendi* within *Brown* v. *Brash and Ambrose, supra*, and he clearly has the substance of a *corpus possesionis* by virtue of his furniture within that case. It would appear, however, that furniture alone is not enough but that a licensee in possession would also be required. The relative coming in regularly to care for the house might well be held to be sufficient although the licensee did not sleep on the premises. If, however, the licensee failed to visit and care for the house even without the knowledge of the tenant and contrary to his wishes and in breach of her engagement, we are inclined to the view that the protection of the Acts would be lost notwithstanding the presence of the furniture.

5.—Licensing—*Affixing notice of application on door of church, etc.*

We are acting for an applicant for a new licence in respect of premises which are not yet built.

In accordance with s. 15 of the Licensing (Consolidation) Act, 1910, the usual notices have been given and, in particular, notices have been exhibited on the site and also at the church of the parish where the intended premises are to be built. The first of such notices was put up and maintained between 10 *a.m.* and 5 *p.m.* on Sunday last and it is intended that the second will be exhibited on Sunday next, February 1, 1953. We also have a further Sunday in hand before the Licensing Sessions.

The purpose of this inquiry is to clear up a doubt which is in our minds, *viz:*

The notice at the church was not placed *on* the door of the premises but on a notice board headed "Public Notices" immediately at the right of the main door of the church in the church porch. There is no outer door to the church porch.

The writer has a somewhat uneasy feeling as to whether or not the notice should have actually been pinned on the door, and would

like to know your opinion. If in your opinion the section should be literally complied with then next Sunday and the following Sunday can be used as the two "Consecutive" Sundays. NOAP.

Answer.

Section 38 of the Licensing Act, 1949, reads as follows:

Fixing of notice on church doors.

Any provision of the Act of 1910 requiring a notice, or a copy of a notice, to be fixed on the door of a church or chapel shall have effect as if it required the notice or copy to be fixed either on the door of the church or chapel or on some public and conspicuous place near the door thereof.

This section, we think, will remove our correspondent's uneasy feeling.

6.—Road Traffic Acts.—*Driving licence—Inability of applicant to read—Should he so state in reply to question* 13 *on application form?—Possible offences.*

D, the holder of a provisional licence, was recently before the court charged with failing to conform to a "Keep Left" sign, and was convicted. When interviewed by a constable before the proceedings were instituted, D informed him that he could not read or write, that he could read figures very slowly, but not letters as on a registration number plate. The application form D.L.1 leading to the issue of the provisional licence purports to be signed by D, and the answers to the questions therein (as set out in Part I of sch. 1 to the Motor Vehicles (Driving Licences) Regs., 1950) are as follows: 13, "Yes"; 15, "No"; 16, "Yes." D's father has admitted having filled in the form and signed it, and also the driving licence. As to question 13, he stated that D could read some letters and figures, and as to question 16, that he had himself taught D the Highway Code. He further stated that D can sign his name either by copying it from the father or by the father directing his hand. He explained D's inability to write by saying that he has a nervous disorder affecting the brain, and that he is perfectly normal in all ways except that he is "very backward as regards learning."

Attention is drawn to ss. 5 and 112 of the Road Traffic Act, 1930, and also to regs. 5 and 6 and sch. 3 to the above-mentioned Regulations. It will be noted that whilst s. 5 (1) requires the applicant for the grant of a licence to "make a declaration in the prescribed form as to whether or not he is suffering from any such disease or physical disability as may be specified in the form, or any other disease or physical disability which would be likely to cause the driving by him of a motor vehicle . . . to be a source of danger to the public," "disabilities" is not qualified by the adjective "physical" in reg. 5 or in question 15 in the form.

The "nervous disorder" from which D is alleged by his father to suffer is not one of the specified diseases, and of course may be merely a defect of intelligence. The question is therefore whether D's inability to read except for his very limited recognition of figures and some letters is a disability which should have been declared on the application form. Insofar as the answers given to the questions are concerned—

(1) Is "read" in question 13 (and also in the first requirement in sch. 3 to the Regulations) to be taken to mean merely "see," or does it mean "read intelligently"? In other words, is the question directed to the eyesight only of the applicant, or is it intended as a test of his ability to see and recognize traffic signs as well? The tenth requirement in sch. 3 is against the latter view, but that does not apply to the grant of a provisional licence.

(2) Is mental inability to read a disability within question 15? Certainly D's presumed inability to read the "Keep Left" sign and other traffic signs must be a source of danger. The Act, of course, governs the Regulations, and as the Act refers only to "physical disability" one must ask whether intelligent reading is a physical function. To the ordinary person recognition of a letter or figure follows so closely on the seeing of it that it might well be described as a purely physical act.

(3) Can a person who cannot read the Highway Code be said to have "studied" it (question 16) if it has been read over and explained to him by another? Although one has heard of illiterates with sufficient business acumen (including the recognition at sight of the difference between a £1 and a 10*s.* note) to amass large fortunes, the variety in traffic signs is such that one must doubt whether a person who cannot read can memorize them all, with all their mutations. D certainly failed to recognize one very common sign. It is relevant also that D, whilst holding provisional licences, has been convicted for driving without "L" plates and for carrying an unauthorized pillion passenger; this at least strongly suggests that he is not fully aware of his obligations as a driver, under the Highway Code or otherwise.

If the answers to these questions on D's application form, or any of them, are incorrect by the above standards, then we must go on to consider what offence has been committed and by whom. Presumably there is no forgery, since the application form is not as a document false, and the signature, though not D's, has been made for him with his consent. By s. 112 (2), however, "if any person for the purpose of obtaining the grant of any licence to himself or any other person knowingly makes any false statement" an offence is committed. The statements on the form are those of D's father and although he signed his son's name he did so as agent. D adopted the statements, and must be presumed to have sent or authorized the sending by post of the form as his own; does the fact that he may not have known what was in the form exculpate him, or, on the other hand, does D's adoption of the form exculpate his father? There is, of course, another possible offence under reg. 17, if D did not himself sign the provisional licence; but if his usual signature is produced by having his hand directed by his father then this offence would be difficult to prove.

Your opinion is therefore sought on the following questions:

1. Are the replies appearing on D's application form to questions 13, 15 and 16 (or any of them) false statements within s. 112?

2. If so, was the offence under s. 112 committed by D's father or by D, or by both? J.Sss.

Answer.

Our correspondent puts the arguments clearly in his question and we hesitate to express a decided opinion, but our view is as follows:

1. Question 13 is designed as a test of eyesight and not of education. It is probably assumed that anyone filling in such a form can read. The fact remains, however, that the question is "Can you *read*, etc.?" and we do not think that a person who cannot read at all can truthfully answer "Yes" to that question.

If D were tested under requirement 1 of the third schedule he would fail. He would have to say "I can see it, but I can't read it because I can't read at all." He would fail similarly under requirement 10. This, we think, supports the view we take.

We do not think that it can be said with certainty that the answers to questions 15 and 16 are necessarily false.

2. We think D must be assumed to be responsible for the form which purports to bear his signature and on which a licence is issued to him—he might be able, in his defence, to satisfy a court to the contrary. We think he can be summoned under s. 112, and his father can be summoned (1) for aiding and abetting him, or (2) alternatively for making the false statement for the purpose of obtaining a licence for his son, if the view is taken that it is really his application.

OFFICIAL AND CLASSIFIED ADVERTISEMENTS, ETC. (*contd.*)

SEDGEFIELD RURAL DISTRICT COUNCIL

Clerk and Chief Financial Officer of Council

APPLICATIONS are invited from Solicitors or persons unadmitted who are experienced in Local Government Law, Administration and Finance, for the whole-time appointment of Clerk and Chief Financial Officer of the Council.

The terms and conditions of appointment will be in accordance with the Recommendations of the Joint Negotiating Committee for Town Clerks and District Council Clerks (population 36,583, commencing salary £1,550 per annum) and subject to—

(*a*) The provisions of the Local Government Superannuation Act, 1937.

(*b*) A satisfactory medical examination.

(*c*) Three months' notice on either side.

Candidates must disclose whether they are related to any Member or Senior Officer of the Council.

Applications, giving particulars of age, qualifications, experience, past appointments, present appointment (stating salary), and availability, with names and addresses of three responsible persons as referees, endorsed "Clerk and Chief Financial Officership," to be delivered to the undersigned not later than May 28, 1953.

BARBARA SHORE,
Deputy Clerk to the Council.

Sedgefield,
Stockton-on-Tees,
Co. Durham.

EAST NORFOLK PROBATION AREA

Appointment of Whole-time Woman Probation Officer

THE East Norfolk Probation Area Committee invites applications for the appointment of a Woman Probation Officer to be stationed at Great Yarmouth, whose services will be assigned to that County Borough and to adjoining Petty Sessional Divisions. The person appointed will be required to provide a motor-car for use in connexion with her duties, for which use travelling allowances in accordance with the Scheme of the National Joint Council for Local Authorities' A.P.T. and Clerical Services, will be payable.

The appointment and salary will be in accordance with the Probation Rules and the selected candidate will be required to pass a medical examination and to act under the supervision and direction of the Senior Probation Officer for the Area.

Applications, stating age, qualifications and experience, together with the names and addresses of two persons to whom reference can be made, should be received by the undersigned not later than May 30, 1953.

H. OSWALD BROWN,
Secretary to the East Norfolk Probation Area Committee.

County Offices,
Thorpe Road,
Norwich.

REDDITCH URBAN DISTRICT COUNCIL

Clerk's Department

Appointment of Legal Assistant

APPLICATIONS are invited for the above appointment at a salary in accordance with A.P.T. Grade 1 and subject to the National Scheme of Conditions of Service.

Candidates should have had experience of Conveyancing and general legal work either in a Solicitor's office or the legal department of a local authority and be a competent typist. A knowledge of shorthand will be a recommendation.

The appointment will be subject to the provisions of the Local Government Superannuation Acts and to the successful applicant passing a medical examination, and will be determinable by one month's notice on either side.

Applications, giving full particulars of age and experience, and accompanied by copies of not more than three recent testimonials and addressed "Legal Assistant," must reach the undersigned not later than May 30, 1953.

Canvassing, either directly or indirectly, will be a disqualification.

Dated this 11th day of May, 1953.

W. IRVING WATKINS,
Clerk of the Council.

The Council House,
Redditch.

ROYAL BOROUGH OF KINGSTON-UPON-THAMES

Appointment of Deputy Town Clerk

APPLICATIONS are invited from Solicitors, not over forty-five years of age, for the appointment of Deputy Town Clerk at a salary of £1,200 per annum rising by two annual increments of £50 to a maximum of £1,300 per annum. Applicants should have considerable experience in local government.

The appointment is subject to the Local Government Superannuation Act, 1937, and is terminable by one month's notice.

The Deputy Town Clerk will not be permitted to engage directly or indirectly in private practice and will be required to devote his whole time to the duties of his Office.

Applications (endorsed Deputy Town Clerk), giving age, education, qualifications, experience, present and previous appointments, and the names of three persons to whom reference can be made, must be delivered to the undersigned not later than May 30, 1953.

A. B. ROGERS,
Town Clerk.

Guildhall,
Kingston-upon-Thames.
May 9, 1953.

NOTTINGHAMSHIRE COUNTY COUNCIL

Assistant Solicitor

APPLICATIONS are invited for the above appointment in my Office on a salary scale of £975 per annum rising by annual increments of £25 to £1,075 per annum. Candidates should have had considerable experience in Local Government law and practice. Terms and Conditions of Appointment can be obtained upon application to my Office and applications must be received by me not later than Wednesday, May 27, 1953.

K. TWEEDALE MEABY,
Clerk of the Peace and of the County Council.

Shire Hall,
Nottingham.
May 6, 1953.

CITY OF PLYMOUTH

Appointment of Town Clerk

APPLICATIONS are invited for the post of Town Clerk, which will become vacant on October 1, next. Applicants must be Solicitors, not exceeding fifty years of age, and possessing a sound knowledge of and extensive experience in Local Government law, practice and administration.

The Recommendations regarding salary and conditions of service of the Joint Negotiating Committee for Town Clerks will apply to the appointment, and the salary will be on the scale of £2,500 per annum rising by three annual increments of £100 to £2,800 per annum.

Applications should be made on a form which may be obtained from me, and which must be returned to me, accompanied by copies of three recent testimonials, not later than Thursday, May 21.

COLIN CAMPBELL,
Town Clerk.

Town Clerk's Office,
Pounds House,
Peverell,
Plymouth.

COUNTY BOROUGH OF CHESTER

Deputy Town Clerk

APPLICATIONS from Solicitors with considerable local government experience are invited for this appointment at a salary of £1,050×£50 to £1,250. The appointment will be subject to a medical examination.

Applications, giving the names of three referees, should reach me not later than May 30. Canvassing will disqualify.

G. BURKINSHAW,
Town Clerk.

Town Hall,
Chester.

DERBYSHIRE MAGISTRATES' COURTS COMMITTEE

Appointment of Justices' Clerk

APPLICATIONS are invited from persons qualified in accordance with the Justices of the Peace Act, 1949, for appointment of whole-time Clerk to the Justices for the Ilkeston Petty Sessional Division with an estimated population of 90,000.

The personal salary will be £1,500, subject to review at the discretion of the Committee when the National Scale for Justices' Clerks have been agreed.

The Petty Sessional Division will be subject to review by the Committee at a later date.

The appointment will be superannuable and subject to medical examination.

Applications, stating age, qualifications and experience, together with the names of three persons to whom reference can be made, must be submitted to me by May 29.

D. G. GILMAN,
Clerk of the Magistrates' Courts Committee.

County Offices,
Derby.

NOTTINGHAMSHIRE MAGISTRATES' COURTS COMMITTEE

Appointment of Second Assistants to the Clerks to the Justices for:

(*a*) The Borough of Newark, Petty Sessional Division of Newark and Petty Sessional Division of Southwell; and
(*b*) The Borough of Mansfield and Petty Sessional Division of Mansfield.

APPLICATIONS are invited for the above full-time appointments. Applicants should have a knowledge of the work of a Justices' Clerk's Office and previous Court experience will be considered an advantage. The Salary in each case will be on Grade III of the A.P.T. Division of the National Joint Council Scale, namely, £525 × £15 to £570 per annum and the commencing salary will be fixed within this Grade according to experience. The appointments which are superannuable, will be subject to one month's notice on either side and the successful candidates will be required to pass a medical examination.

Applications, stating age and experience, together with copies of two recent testimonials, must (according to the position applied for) reach (*a*) The Clerk to the Justices, Town Hall, Newark, or (*b*) The Clerk to the Justices, 70, Nottingham Road, Mansfield, not later than Monday, June 1, 1953.

K. TWEEDALE MEABY,
Clerk of the Committee.

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